

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JERRY LEON DEES, JR.,

Plaintiff,

V.S.

HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC,

Defendant.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

CASE NO.
2:07-cv-00306-MHT-CSC

**MEMORANDUM IN SUPPORT OF PLAINTIFF’S MOTION TO RECONSIDER THE
COURT’S DISMISSAL OF PLAINTIFF’S USERRA TERMINATION CLAIM**

Comes now the Plaintiff, JERRY LEON DEES, JR. (“Dees”), by and through his counsel of record, and files this memorandum in support of his motion to reconsider the Court’s dismissal of his USERRA termination claim, stating as follows:

On May 21, 2008, the Court dismissed Plaintiff's USERRA termination claim on HMMA's motion for summary judgment. (Doc.'s 186 and 187).

In so doing, the Court cited three premises upon which it relied, as follows:

- Only Prater “harbored some animus” towards Dees because of Dees’ Guard membership and, since Prater did not participate in the decision to fire Dees, Prater’s animus cannot be imputed to HMMA to hold HMMA liable for Dees’ termination;
- Because Brookshire found Dees sleeping, and no bias was attributed to Brookshire, then Brookshire had no discriminatory motive when he allegedly observed Dees sleeping; and

- The termination proceeding was based solely on the allegations that Dees was asleep on the job so, therefore, Dees cannot show that his military status was a “motivating factor” in his termination.

As discussed below, Plaintiff has presented significant evidence that these three premises are not supported by the weight of the evidence and, taken in the light most favorable to the Plaintiff, a reasonable jury could conclude that Dees’ military membership was a motivating factor in his termination by HMMA.

Only Prater Harbored Animus Towards Dees About Dees’ Guard Duty

The premise that only Prater harbored animus towards Dees and was the only actor at HMMA that harassed Dees because of his Guard membership and obligations is contradicted by the sheer weight of the evidence.

In addition to the significant and pervasive harassment visited upon Dees by Prater because of Dees’ Guard membership and obligations, cited by the Court in its Opinion dated May 21, 2008, John Applegate, Sr. Manager of Maintenance and Prater’s immediate supervisor, also subjected Dees to harassment because of Dees’ Guard membership and obligations. Applegate harbored animus against Dees because of the Guard’s letter of instruction (“LOI”) sent to HMMA, and not only was Applegate aware of the harassment perpetrated on Dees because of his Guard membership and obligations, he participated in it.

What’s more, Applegate participated in the Termination Committee meeting, and Applegate made the recommendation to terminate Dees. [Clevenger Depo. at 39:5-21; 162:16-163:3] Applegate was, therefore, the decision-maker regarding whether Dees would be terminated.

During the months-long harassment by Prater, Dees attempted to end the harassment by, among other things, meeting with Applegate, which Dees did two or three times. [Dees Depo., Pl. Evid. Sub. in Support of His Opposition to Def. Mot. Sum. Jud., Exhibit 1 (Doc. 108-2), at 101:11-15] During these meetings, Applegate told Dees not to worry about his Guard duty and stay at work. [Dees Depo. at 102:10-22] Applegate also told Dees he needed to focus more on his job and not worry about his Guard duty, and that most of the time all they (the Guardsmen) do is party down there anyhow. [Dees Depo. at 142:8-16] Further, Applegate told Dees not to worry about the letter Dees' Guard unit sent to HMMA. [Dees Depo. at 173:17-22]

What's more, even after the Guard sent the LOI, Applegate made it clear to Dees that Prater could run the department any way Prater saw fit, and Applegate ratified each and every decision Prater made. [Dees Depo. at 98:15-21; 123:17-21] Finally, when it was obvious that Dees was not going to quit because of the harassment, Applegate told Prater to get rid of Dees. [Dees Depo. at 229:3-13; 245:15-23] This evidence should be considered at the summary judgment stage because it can be made admissible at trial. *See Trevizo v. Adams*, 455 F.3d 1155, 1160 (10th Cir. 2006) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 324, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986)).

After HMMA fired Dees, Applegate participated in the staging of photos of SOPS third-floor mezzanine [Clevenger Depo. at 126:3-22], where Brookshire allegedly observed Dees sleeping, so that Dees would not get his job back if Dees chose to pursue a peer review of his termination. The proof is conclusive that the photographs were staged because:

- The photographs were taken three weeks after the alleged incident [Clevenger Depo. at 125:13-126:6];

- The position of the doors was, depending on the photograph, either open to support the story fabricated by Applegate that Dees created of a “blind,” or completely closed; but was not as Brookshire described:

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8 Q Okay. Now, I've heard that somehow or
9 another Mr. Dees had used the doors to provide a
10 hiding place. Is that your recollection?

11 A My recollection is at the time of this
12 incident the doors may have been cracked open
13 because sometimes Maintenance doesn't completely
14 shut the doors so they can easily access the
15 panel. But my recollection was the doors were
16 mostly shut. I can't account if they were
17 exactly locked shut but they were mostly shut.
18 As far as him using that routinely and opening
19 the doors to hide, I don't know.

20 Q You didn't see door panels -- excuse
21 me -- you didn't see doors open to the extent
22 that you thought they were being used by
23 Mr. Dees as a blind to hide behind?

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1 MR. JOHNSON: Object to the form.

2 A What I can tell you is the day of the
3 incident that I seen him I can't tell you
4 whether the doors were completely locked or not,
5 but they weren't wide open.

[Brookshire Depo. at 108:8-109:5];

- Nor was the position of the doors as Gwang Mun, Coordinator for Stamping Maintenance, testified when he examined the area the day after Dees was fired [Mun Depo. at 59:7-61:19]; and
- Clevenger had no reasonable explanation for the photographs and why they differed from eyewitness accounts, and could not say who had set the area up as it was when he and Applegate arrived on the scene on March 5, 2007, and had no idea who re-

staged the scene so different photos could be taken. [Clevenger Depo. at 132:4-133:9; 133:17-134:2; 134:14-135:11; 137:22-141:12].

Dees' team leader Kevin Hughes also harbored animus toward and harassed Dees. After Dee's Guard unit sent the LOI to HMMA, Hughes started "birddogging" Dees. [Dees Depo. at 172:15-173:5] Hughes was involved in the "lift" incident that resulted in Dees getting written up for the fourth time after the Guard issued the LOI. [Dees Depo. at 151:8-154:4] This incident occurred on February 6, 2007 – *the same day* Dees requested another meeting with Greg Kimble, Vice President of Human Resources, to again his harassment because of his Guard duty. [Pl. Evid. Sub. in Support of His Opposition to Def. Mot. Sum. Jud., Exhibit 22 (Doc. 108-23)]

Hughes also participated in assigning Dees to the pit as punishment for complaining about his treatment to his Guard unit. [Dees Depo. at 157:17-158:23] What's more, Hughes was with Jim Brookshire on the night Brookshire allegedly caught Dees asleep in the SOP third floor mezzanine, pointing up at Dees and Shane Archer, just before Archer left the area and Brookshire then came upstairs and allegedly observed Dees sleeping. [Dees Depo. at 199:3-200:1; Archer Declaration, Pl. Evid. Sub. in Support of His Opposition to Def. Mot. Sum. Jud., Exhibit 9, ¶ 7 (Doc. 108-10)]

Brookshire Could Not Have Had a Discriminatory Motive

The premise that Brookshire could not have had a discriminatory motive is also contradicted by the weight of the evidence presented. Brookshire was frequently with Hughes and Prater when they disciplined Dees, even though production issues were not involved. [Dees Depo. at 230:3-231:6] Brookshire also participated in sending Dees to clean the pit. [Dees Depo. at 157:17-158:23]

What's more, Brookshire, along with Hughes and Prater, falsely accused Dees of creating a production breakdown and then walking away from the repair on February 6, 2007 (the "lift" incident). [Dees Depo. at 149:21-154:4] As noted above, this false accusation resulted in Prater writing Dees up for the fourth time since the Guard sent the LOI to HMMA. [Ex. A, DEES V HMMA 41-42] This false accusation by Brookshire, Hughes and Prater occurred exactly one week before Brookshire allegedly observed Dees sleeping, and *on the same day* as Dees' e-mail to Greg Kimble requesting another meeting to discuss continued harassment because of his Guard duty.

Termination Proceeding was Based Solely On Sleeping Allegations

Finally, the premise that the decision of the termination committee was based solely on the allegations of sleeping and, therefore, the termination decision was not made in bad faith, is simply not in accord with the great weight of evidence.

As noted by the Court, Dees was fired for "intentional sleeping." The two facts upon which the termination committee relied to establish Dees intent to sleep (that Dees was in an area he was not supposed to be and that Dees had positioned the doors of the cabinet to form a "blind" so he could avoid detection) were false, and were obviously fabricated by Applegate. Clevenger testified that Applegate gave him both of those pieces of information. [Clevenger Depo. at 48:7-49:7; 89:3-90:10; 92:19-93:19] No mention of these alleged facts, *fabricated to create the appearance of intent to sleep*, is anywhere else in the record. Brookshire's own statement makes no mention of these fabricated facts. [Ex. B, Clevenger Depo. at 89:13-90:10; Brookshire's Statements, Exhibit C] In fact, Brookshire admitted that the doors were mostly shut, and not open as described by Applegate. [Brookshire depo., Def. Ev. Sub. in Supp. Mot. Sum. Jud., Ex. B (Doc. 68-4), at 108:8-109:5]

Further, Applegate was present at the Termination Committee meeting, and Applegate made the recommendation to terminate Dees. [Clevenger Depo. at 39:5-21; 162:16-163:3] Applegate was, therefore, the decision-maker regarding whether Dees would be terminated. As discussed above, Applegate harbored animus against Dees because of the Guard's LOI sent to HMMA, and not only was Applegate aware of the harassment perpetrated on Dees because of his Guard membership and obligations, he participated in it. Further, Applegate told Prater to get rid of Dees. [Dees Depo. at 229:3-13; 245:15-23]

Therefore, in the light most favorable to Dees, Applegate, who was present at the Termination Committee meeting, fabricated the two critical facts upon which Dees termination for intentional sleeping was based, and made the recommendation to fire Dees, which the Termination Committee merely ratified based on his fabricated facts and his recommendation.

Also, HMMA did not follow its own procedures when Dees complained of harassment. [See HMMA's Anti-Harassment Policy, Ex. D hereto] This policy stated that "(a)ctions, words, jokes, or comments based on an individual's sex, race, ethnicity, age (40+), religion, or any other legally protected characteristic will not be tolerated." [Ex. D, DEES V HMMA 00083-86] The policy further defined discrimination and unlawful harassment as "forms of misconduct that demean another person and undermine the integrity of the employment relationship," and prohibited that conduct. [Ex. D, DEES V HMMA 00083] The policy required that when "HMMA becomes aware that harassment **might** exist, it will take prompt and appropriate action." [Ex. D, DEES V HMMA 00084, ¶ 1 (emphasis added)] The policy further stated that "All reports will be promptly investigated..." [*Id.*, ¶ 3.]

Despite Dees meeting with Applegate two or three times [Dees Depo., *supra*] and meeting with HMMA human resources, including its Vice President, Kimble, on at least two

occasions to report and discuss HMMA's harassment of Dees because of his Guard membership and obligations, no one at HMMA ever investigated Dees' claims as required by HMMA's Anti-Harassment Policy. In fact, Applegate ignored Dees' complaints, writing them off as mere communications problems. [See Ex. E, Discussion Planner dated Nov. 15, 2006] In that memorandum, Dees complained to Applegate, who ignored Dees' complaint, as follows:

On 11/15/06, Leon from the Press Shop complained that **Greg was not treating him fairly concerning his military duty. He accused Greg of requiring written orders when not required and assigning him hard work as a form of punishment.** I discussed the situation with Greg and Leon. This is another example of a communication problem in Press Maintenance.

[Ex. E (emphasis added)]

When Dees was caught sleeping, however, Prater conducted the investigation. Although Dees had a corroborating witness, Archer, who could confirm Dees was not sleeping and the other details of Dees' version of events, neither Prater nor Team Relations interviewed Archer. Instead, Team Relations chose to blindly believe what Brookshire and Applegate said. Clevenger admitted that this was because a member of management is to be believed before an employee, and no other reason. [Clevenger Depo. at 151:4-152:17]

Because Prater conducted the investigation into Dees sleeping, even though Prater was one of the primary perpetrators of the illegal harassment of Dees, and Prater's deciding not to interview Archer was a decision so out of the realm of fairness in the investigation, the jury should be allowed to view it as circumstantial evidence that Prater was involved in setting Dees up to get fired.

As the Court stated in its Opinion, 38 U.S.C. § 4311 prohibits discrimination in employment if the employee's membership in the armed services 'is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the

absence of such membership.’” [Doc. 186 at 8.] To present his USERRA claim to the jury, therefore, Dees must present evidence from which a reasonable jury could conclude that his protected status was a motivating factor in his termination. “A motivating factor does not mean that it had to be the sole cause of the employment action. Instead, it is one of the factors that a truthful employer would list if asked for the reasons for its decision.” *Coffman v. Chugach Support Services, Inc.*, 411 F.3d 1231, 1238 (11th Cir. 2005) (quotations and citations omitted). “Military status is a motivating factor if the defendant relied on, took into account, considered, or conditioned its decision on that consideration.” *Id.* (citations omitted).

“Circumstantial evidence plays a critical part in these cases, for discrimination is seldom open or notorious.” *Id.* (quotations and citations omitted). Furthermore, “(t)he court can infer discriminatory motivation under USERRA from a variety of considerations, such as: proximity in time between the employee’s military activity and the adverse employment action, inconsistencies between the proffered reason and other actions of the employer, an employer’s expressed hostility towards members protected by the statute together with the knowledge of the employee’s military activity, and disparate treatment of certain employees compared to other employees with similar work records or offenses.” *Id.*

The evidence presented above, taken in the light most favorable to Dees, shows that Applegate, Prater, Hughes and Brookshire participated in harassing and retaliatory acts that subjected Dees to harassment because of his Guard membership and obligations. When Dees would not quit, Applegate directed Prater to get rid of Dees. Hughes and Brookshire participated in the acts that led to Brookshire accusing Dees of sleeping on the job. In order to show that Dees was intentionally asleep, Applegate fabricated the “facts” that Dees was in an isolated area he was not supposed to be, and that Dees had created a “blind” by placing his chair between two

open doors to hide himself from view. Despite the existence of Archer, a corroborating witness that would confirm Dees' version of events, Prater, who conducted the investigation, refused to interview Archer. Applegate then had the fabricated facts showing that Dees intended to sleep, along with Applegate's recommendation to fire Dees, placed in the summary memo given to the Termination Committee. Applegate participated in that meeting and reiterated these fabricated facts and his recommendation to terminate Dees. On Applegate's recommendation and the false evidence presented, the Termination Committee voted to fire Dees.

Since Applegate participated in the harassment along with his direct report, Prater, and Brookshire, the manager that allegedly caught Dees sleeping, and because Applegate fabricated the false evidence used to convince the Termination Committee that Dees was intentionally sleeping on the job, sufficient evidence exists from which a reasonable jury could conclude that Dees' Guard membership was a motivating factor in his termination.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully moves the Court to reconsider its dismissal of Plaintiff's USERRA termination claim, and to reinstate said claim.

Respectfully submitted,

s/ Jeffrey R. Sport
Jeffrey R. Sport (SPORJ5390)

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CERTIFICATE OF SERVICE


I do hereby certify that I have on the 2nd day of June, 2008, electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system which will send notification of such filing to:

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s/ Jeffrey R. Sport
COUNSEL

ENTERED

 HYUNDAI Hyundai Motor Manufacturing Alabama		DISCUSSION PLANNER		HR-AL-HR-TR-F-00028
Rev Date: 06/24/06		Owner: Team Relations		Revision Level: 02
DATE		2.5.07		
SUPERVISOR NAME <small>(originator of this document)</small>		Greg Prater		
DISCUSSION WITH Include T/M# & Department		Leon Dees (103039) <i>Maint.</i>		
SITUATION To be discussed		Walking away from a breakdown situation (job)		
DESCRIBE PERSON INVOLVED * Performance/Work Habits Record * General Behavior * Specifics for KP-1		TM look to Leon for advise on SOPS		
OBJECTIVE(S) * What do you hope to accomplish in this discussion		Discussing walking away from a job or Breakdown situation without communication		
CRITICAL STEPS TO BE USED * Which key principles will you use? When?		examples		
BACKGROUND INFORMATION * Facts Known * Information Needed * Concerns * Possible cause(s)/reason(s) for the situation * Consequences to T/M if the situation continues * Other		There was a breakdown situation on the VL and Shane and Leon were working on the VL. Leon left the breakdown and went to lunch with no face to face with the turn over which Kevin Hughes was leading that repair group. Leon is assigned the SOPS		
ALTERNATIVES * Possible actions/solutions * Resources available * Constraints				

EXHIBIT

A

DISCUSSION SUMMARY

I spoke to Leon investigating the incident, during his interview, Greg Prater asked Leon what could have went better, and Leon refused to answer, then Greg Prater said that, Leon is a ssigned SOPS he (Leon) was responsible for this area, that he was heading the repair up, Leon should and alway be the one doing a hand over on a breakdown, if he were going to lunch, or take a later lunch, and complete the breakdown, Greg Prater also explained that Leon needed to work with Kevin, have a working relationship between he and Kevin, Greg expects Leon to follow instructions from Kevin, that if there was an issue to follow up with Greg Prater or any other member of management, if there was a safety concern, Greg told Leon that just walking away from a breakdown situation adn go to lunch and let someone else give a pass down, who is not as skilled in particular area. he told me he didnt have anything to say to Kevin.

SPECIFIC ACTIONS:

PERSON RESPONSIBLE

BY WHEN

FOLLOW-UP

* Date, Time, Place

* Other

REVIEW

To what extent did you meet your objectives?

all

What Critical Steps/Key Principles did you handle most effectively?

examples

What Critical Steps/Key Principles could you have used more effectively?

none

What will you do differently in your next discussion?

none.

ROBERT ALLEN CLEVINGER

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IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

CASE NO.: 2:07-cv-00306-MHT-CSC

JERRY LEON DEES, JR.,

Plaintiff,

V.

HYUNDAI MOTOR MANUFACTURING ALABAMA, LLC and

HYUNDAI MOTOR AMERICA, INC.,

Defendants.

S T I P U L A T I O N S

IT IS STIPULATED AND AGREED by and between the parties, through their respective counsel, that the deposition of ROBERT ALLEN CLEVINGER may be taken before STACEY L. JOHNSON, Commissioner, at the Hampton Inn, Tampa Room, 60 Wasden Road, Hope Hull, Alabama, on the 13th day of December, 2007.

Exhibit
B

ROBERT ALLEN CLEVINGER

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IT IS FURTHER STIPULATED AND AGREED that the signature to and the reading of the deposition by the witness is hereby not waived, the deposition to have the same force and effect as if full compliance had been had with all laws and rules of Court relating to the taking of depositions.

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of trial, or at the time said deposition is offered in evidence, or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that the notice of filing of the deposition by the Commissioner is waived.

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I, STACEY L. JOHNSON, a CCR of Deatsville, Alabama, and Notary Public for the State of Alabama at Large, acting as Commissioner, certify that on this date, as provided by the Federal Rules of Civil Procedure and the foregoing stipulation of counsel, there came before me at 60 Wasden Road, Hope Hull, Alabama, beginning at 1:22 p.m., ROBERT ALLEN CLEVINGER, witness in the above cause, for oral examination, whereupon the following proceedings were had:

ROBERT ALLEN CLEVINGER, the witness, after having been first duly sworn to speak the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MR. KILBORN:

Q Afternoon, Mr. Clevenger.

A Good afternoon.

Q Could you tell me your full name?

A Robert Allen Clevenger.

Q And your address, please?

A 1074 East Poplar Street, Prattville,

2 (Pages 2 to 5)

ROBERT ALLEN CLEVENGER

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<p>1 Alabama 36066.</p> <p>2 Q Are you married?</p> <p>3 A Yes, sir.</p> <p>4 Q What's your wife's name?</p> <p>5 A Stephanie Ann Clevenger.</p> <p>6 Q Do you have any children?</p> <p>7 A Yes, sir.</p> <p>8 Q How many?</p> <p>9 A Three.</p> <p>10 Q Where were you born?</p> <p>11 A I was born in Tipton, Indiana.</p> <p>12 Q Are you currently employed?</p> <p>13 A Yes, sir.</p> <p>14 Q By who?</p> <p>15 A Hyundai Motor Manufacturing Alabama.</p> <p>16 Q And when did you start?</p> <p>17 A November 11, 2003 -- excuse me --</p> <p>18 November 10, 2003.</p> <p>19 Q And your current job?</p> <p>20 A Assistant Manager, Team Relations.</p> <p>21 Q What are your duties?</p> <p>22 MR. SCOFIELD: Object to the form. You</p> <p>23 can answer.</p>	<p>1 Q So it was in a manual?</p> <p>2 A Yes. It was in written form.</p> <p>3 Q Written form. So you have a copy of</p> <p>4 the progressive corrective action system in</p> <p>5 written form in your office?</p> <p>6 A No, sir.</p> <p>7 Q Where is it kept?</p> <p>8 A It is currently kept on the server.</p> <p>9 Q All right. So it's in computer form?</p> <p>10 A Yes, sir.</p> <p>11 Q You have access to it?</p> <p>12 A I do.</p> <p>13 Q Do you have an e-mail address?</p> <p>14 A Yes, sir.</p> <p>15 Q What is your e-mail address?</p> <p>16 MR. SCOFIELD: Object to the form. You</p> <p>17 can answer.</p> <p>18 A Rclevenger@hmmausa.com.</p> <p>19 Q Have you ever had any other e-mail</p> <p>20 address?</p> <p>21 MR. SCOFIELD: Object to the form. You</p> <p>22 can answer.</p> <p>23 A Not at this company, sir.</p>
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<p>1 A Policy interpretation, policy writing,</p> <p>2 overseeing collecting information for corrective</p> <p>3 actions or investigations.</p> <p>4 Q What is corrective action?</p> <p>5 A That's -- corrective action is what we</p> <p>6 would call a progressive discipline system.</p> <p>7 Q Whose progressive system?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A It would -- it's a corrective system to</p> <p>10 correct situations, performance, or behavior.</p> <p>11 Q Is that your progressive action system</p> <p>12 or HMMA's or somebody else's?</p> <p>13 A HMMA's.</p> <p>14 Q Did you help create it?</p> <p>15 A No, sir.</p> <p>16 Q Who created it?</p> <p>17 MR. SCOFIELD: Object to the form. You</p> <p>18 can answer.</p> <p>19 A I don't know.</p> <p>20 Q How did you find out about its</p> <p>21 existence?</p> <p>22 A When I was hired, it was already -- it</p> <p>23 was already in place.</p>	<p>1 Q You have a personal e-mail address, I</p> <p>2 assume?</p> <p>3 A Yes.</p> <p>4 Q Do you do any business on that e-mail?</p> <p>5 A No, sir.</p> <p>6 Q Do you have an office?</p> <p>7 A No, sir.</p> <p>8 Q Where do you stay?</p> <p>9 A It's cubical systems.</p> <p>10 Q You have a cubical?</p> <p>11 A Yes, sir.</p> <p>12 Q What size?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A I could only approximate it.</p> <p>15 Q That's fine.</p> <p>16 A Five by five.</p> <p>17 Q Feet or yards?</p> <p>18 A Feet.</p> <p>19 Q You've got a desk and a chair?</p> <p>20 A Yes. The desk is built into the wall</p> <p>21 system and then a chair.</p> <p>22 Q Okay. And your attorneys were kind</p> <p>23 enough to give me a tour through part of the</p>

3 (Pages 6 to 9)

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<p>1 plant, so I know a little bit about it. But</p> <p>2 what building is your cubical in?</p> <p>3 A Administration.</p> <p>4 Q Is that the first building on the left</p> <p>5 when you come down Hyundai Drive into the plant?</p> <p>6 A No, sir.</p> <p>7 Q Okay. Second building?</p> <p>8 A No, sir. That would be -- that would</p> <p>9 be Weld Shop.</p> <p>10 Q All right. Well, I know where the</p> <p>11 Manufacturing Building is.</p> <p>12 A Yes.</p> <p>13 Q And I know where the Assembly Building</p> <p>14 is. Where would yours be in relation to those?</p> <p>15 A The Administration Building is as</p> <p>16 you're looking at the site directly left of</p> <p>17 General Assembly.</p> <p>18 Q What's the name of the building?</p> <p>19 A Administration Building.</p> <p>20 Q Now, what's the first building on your</p> <p>21 left when you come in down the road going toward</p> <p>22 the Administration Building?</p> <p>23 A That would be the Training Center.</p>	<p>1 A Any resources that we may have in terms</p> <p>2 of policy or procedure that a supplier might</p> <p>3 want help with, he would supply that.</p> <p>4 Q And by supplier, do you mean any vendor</p> <p>5 to HMMA?</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 A Generally any Tier One supplier to</p> <p>8 HMMA.</p> <p>9 Q And what is Tier One?</p> <p>10 A A supplier that would supply us with</p> <p>11 parts.</p> <p>12 Q Any other types of supplies?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A No, sir.</p> <p>15 Q What about professional services?</p> <p>16 A I don't think I understand.</p> <p>17 Q Well, you have lots of vendors of</p> <p>18 things. You have vendors of toilet paper,</p> <p>19 vendors of tires, vendors of mechanic services,</p> <p>20 vendors of vending machines. I mean, you've got</p> <p>21 lots of vendors. So when you say supplier, what</p> <p>22 kind of supplier are we talking about?</p> <p>23 A I understand. Parts related to the</p>
Page 11	Page 13
<p>1 Q The Training Center. Were you trained</p> <p>2 there?</p> <p>3 A I attended orientation there.</p> <p>4 Q Was that in 2003?</p> <p>5 A Yes, sir.</p> <p>6 Q And so -- but you -- you've never been</p> <p>7 back in that building after that?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A I've been there several times.</p> <p>10 Q And what would be the purpose of --</p> <p>11 A To attend other training classes.</p> <p>12 Q Do you have a Korean counterpart?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A No, sir.</p> <p>15 Q Who is your immediate supervisor?</p> <p>16 A Audie Swegman.</p> <p>17 Q Swegman?</p> <p>18 A Yes, sir.</p> <p>19 Q And what is his title?</p> <p>20 A Manager of Supplier Support and Team</p> <p>21 Relations.</p> <p>22 Q And supplier support would be what?</p> <p>23 MR. SCOFIELD: Object to the form.</p>	<p>1 vehicle.</p> <p>2 Q Parts. And so this Mr. Swegman is the</p> <p>3 Manager of, you said, Supplier Support?</p> <p>4 A Yes, sir.</p> <p>5 Q And what type of support does HMMA give</p> <p>6 suppliers?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 Asked and answered.</p> <p>9 A Aid if they request it in writing or</p> <p>10 producing policies/procedures.</p> <p>11 Q Even independent vendors?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A Again, only those vendors that supply</p> <p>14 parts for the vehicle.</p> <p>15 Q Yeah.</p> <p>16 A Tier One.</p> <p>17 Q Well, would those be the Hyundai family</p> <p>18 of companies or outside vendors?</p> <p>19 A Outside as well.</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 Q Outside. So, for instance, somebody</p> <p>22 might be a manufacturer of bearings.</p> <p>23 Mr. Swegman would aid them in policies?</p>

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<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A Generally, it's larger component parts.</p> <p>3 Q Okay. Well, engine blocks?</p> <p>4 A Possibly.</p> <p>5 Q Okay. Do you get involved in that?</p> <p>6 A No, sir.</p> <p>7 Q Do you know why it is that Hyundai aids</p> <p>8 independent, third-party vendors in their</p> <p>9 policies?</p> <p>10 A I can only offer you my thought.</p> <p>11 Q Okay.</p> <p>12 A If they request the help to help.</p> <p>13 Q Would that be like employment policies?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 A Generally, no.</p> <p>16 Q What type of policies? You've got me</p> <p>17 lost. I don't know whether y'all tell them what</p> <p>18 their eating habits ought to be, what their</p> <p>19 dress code ought to be, what their HR policies</p> <p>20 ought to be or what.</p> <p>21 MR. SCOFIELD: Object to the form.</p> <p>22 A We don't -- he would not tell them to</p> <p>23 do anything. It would be if they request help,</p>	<p>1 but if I was a vendor of parts maybe I could?</p> <p>2 MR. SCOFIELD: Object to the form.</p> <p>3 A Possibly.</p> <p>4 Q And how many cubicles are in the</p> <p>5 building that you're in?</p> <p>6 A I don't know.</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 Q Well, is it as far as the eye could see</p> <p>9 or just three or four?</p> <p>10 A Several. I don't know an exact number,</p> <p>11 sir.</p> <p>12 Q Are your offices in just one big room?</p> <p>13 A Yes, sir.</p> <p>14 Q How big is the room?</p> <p>15 A Approximately 50 feet by 50 feet.</p> <p>16 Maybe more.</p> <p>17 Q And is that room dedicated to one</p> <p>18 particular function?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A No, sir.</p> <p>21 Q Multiple functions?</p> <p>22 A Yes, sir.</p> <p>23 Q Outside of the Team Managers, there are</p>
Page 15	Page 17
<p>1 help them craft those policies for themselves,</p> <p>2 such as Team Wear, which you just mentioned.</p> <p>3 Q Team Wear?</p> <p>4 A The clothing.</p> <p>5 Q Dress code?</p> <p>6 A Yes. Team Wear is what we call the</p> <p>7 uniform that we -- that we have.</p> <p>8 Q So you don't refer to that as you've</p> <p>9 got on as a shirt, you call it Team Wear?</p> <p>10 A Yes, sir.</p> <p>11 Q So you've got on Team Wear shirt and</p> <p>12 Team Wear pants and Team Wear shoes?</p> <p>13 A Generally, just pants and the shirt are</p> <p>14 referred to as Team Wear.</p> <p>15 Q Okay. Any other types of policies like</p> <p>16 dress code would -- if they requested help would</p> <p>17 Mr. Swegman help them with?</p> <p>18 A If he was able.</p> <p>19 Q Like what else?</p> <p>20 A I'm not involved in that piece, so it</p> <p>21 would depend on what was requested.</p> <p>22 Q So, for instance, Vince Kilborn</p> <p>23 couldn't walk in and request help with a policy,</p>	<p>1 other types of people doing other types of jobs</p> <p>2 in there?</p> <p>3 A Yes, sir.</p> <p>4 Q And Mr. Swegman's cubical is there,</p> <p>5 too?</p> <p>6 A Yes, sir.</p> <p>7 Q Is he right next to you?</p> <p>8 A No, sir.</p> <p>9 Q How far is he from you?</p> <p>10 A Approximately 15 or 20 feet.</p> <p>11 Q Okay. And do you have a lawyer --</p> <p>12 personal lawyer here today?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A I have Mr. Scofield and Mr. Smith.</p> <p>15 Q Are those your personal lawyers --</p> <p>16 MR. SCOFIELD: Object to the form.</p> <p>17 A No, sir.</p> <p>18 Q -- for this deposition?</p> <p>19 A No, sir.</p> <p>20 Q Do you have a personal lawyer for this</p> <p>21 deposition?</p> <p>22 A No, sir.</p> <p>23 Q Do you have a personal lawyer for any</p>

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<p>1 reason?</p> <p>2 A No, sir.</p> <p>3 Q Have you ever given a deposition</p> <p>4 before?</p> <p>5 A No, sir.</p> <p>6 Q Have you ever testified under oath</p> <p>7 before?</p> <p>8 A No, sir.</p> <p>9 Q Have you ever signed any kind of sworn</p> <p>10 document, like an affidavit or interrogatory</p> <p>11 answer?</p> <p>12 A I don't recall specifically.</p> <p>13 Q Okay. How old are you?</p> <p>14 A I'm 44.</p> <p>15 MR. KILBORN: Can we mark -- what was</p> <p>16 the next exhibit?</p> <p>17 MR. SPORT: 21.</p> <p>18</p> <p>19 (Whereupon, Plaintiff's Exhibit</p> <p>20 Number 21 was marked for identification</p> <p>21 and copy of same is attached hereto.)</p> <p>22</p> <p>23 Q This is my only copy, so if you'll</p>	<p>1 Q You had?</p> <p>2 MR. SCOFIELD: Object. I guess I -- do</p> <p>3 you understand his question?</p> <p>4 Q Was that the first time you were</p> <p>5 requested to find electronically or in hard copy</p> <p>6 documents regarding Jerry Leon Dees?</p> <p>7 A No, sir.</p> <p>8 Q When was the first time you were</p> <p>9 requested to do that?</p> <p>10 A I don't recall the specific date.</p> <p>11 Q Give me a month.</p> <p>12 A I honestly don't know.</p> <p>13 Q Give me a year.</p> <p>14 A It was 2007.</p> <p>15 Q How about a season?</p> <p>16 A Late summer.</p> <p>17 Q Of 2007. And tell me who requested</p> <p>18 that you do that.</p> <p>19 A Rick Neal.</p> <p>20 Q Who is he?</p> <p>21 A General counsel.</p> <p>22 MR. SCOFIELD: At this point, I'm going</p> <p>23 to instruct him not to answer to the extent he</p>
Page 19	Page 21
<p>1 pardon me, I'll have to sort of pass it back and</p> <p>2 forth between us.</p> <p>3 Could you tell me what this document is</p> <p>4 that we were given today?</p> <p>5 A That is a screen print from Microsoft</p> <p>6 Office Outlook of a meeting that I had set.</p> <p>7 Q And how did you locate that?</p> <p>8 A I went into my calendar and was able to</p> <p>9 pull up the old meeting notice.</p> <p>10 Q The old what?</p> <p>11 A I was able to go back in my calendar</p> <p>12 and pull the old meeting notice from that time.</p> <p>13 Q What caused you to search for your</p> <p>14 calendar?</p> <p>15 MR. SCOFIELD: Object to the form.</p> <p>16 A I was requested to try and locate</p> <p>17 anything pertaining to this situation.</p> <p>18 Q Meaning Leon Dees?</p> <p>19 A Yes, sir.</p> <p>20 Q Had you ever before you were requested</p> <p>21 recently been requested to pull up anything</p> <p>22 relating to Jerry Leon Dees?</p> <p>23 A Yes, sir.</p>	<p>1 relates anything provided by Mr. Neal based on</p> <p>2 attorney-client privilege. We will stipulate</p> <p>3 that we as counsel asked Mr. Clevenger in</p> <p>4 connection with preparation for his deposition</p> <p>5 if he had any documents related in any way,</p> <p>6 shape, or form to Jerry Leon Dees.</p> <p>7 Q Well, why was it that you only</p> <p>8 discovered this recently?</p> <p>9 A I hadn't thought of it before.</p> <p>10 Q How are your files kept?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A This was not part of a file. This is</p> <p>13 part of a program. Files would be kept in a</p> <p>14 filing cabinet.</p> <p>15 Q Do you keep those?</p> <p>16 A They're kept in the department.</p> <p>17 Q Do you have access to them?</p> <p>18 A Yes, sir.</p> <p>19 Q So you have access to Jerry Leon Dees'</p> <p>20 file?</p> <p>21 A Yes, sir.</p> <p>22 Q How many files does he have?</p> <p>23 A One that I'm aware.</p>

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<p>1 Q What's it called?</p> <p>2 A It just has his name.</p> <p>3 Q It's not called personnel file or</p> <p>4 anything like that?</p> <p>5 A Not that I maintain, sir.</p> <p>6 Q Well, there's files that somebody else</p> <p>7 maintains that you know about?</p> <p>8 A I would say there would also be an</p> <p>9 employment file.</p> <p>10 Q Do you have access to that?</p> <p>11 A No, sir.</p> <p>12 Q Who has access to that?</p> <p>13 A Manager of employment.</p> <p>14 Q Who is that?</p> <p>15 A Wendy Warner.</p> <p>16 Q Now, this Exhibit 21, it looks like</p> <p>17 it's a -- well, you tell me what it is since you</p> <p>18 pulled it up.</p> <p>19 A When you open meeting note in Outlook,</p> <p>20 this is the screen that you see.</p> <p>21 Q And what does that screen tell me?</p> <p>22 MR. SCOFIELD: Object to the form.</p> <p>23 A It tells who was requested to attend</p>	<p>1 listed on the meeting notice.</p> <p>2 Q Who decided who to send the notice to?</p> <p>3 A Those are the -- those are the</p> <p>4 individuals that are -- that review the</p> <p>5 information.</p> <p>6 Q How did you know what individuals</p> <p>7 review information?</p> <p>8 A I was told at hire who should be in the</p> <p>9 meeting.</p> <p>10 Q And who told you?</p> <p>11 A Mr. Swegman.</p> <p>12 Q And what would be the purpose of this</p> <p>13 meeting?</p> <p>14 A So that those parties could review the</p> <p>15 information, collect it, and make a decision.</p> <p>16 Q What decisions were available?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A Termination or some other decision that</p> <p>19 they might make.</p> <p>20 Q Would termination be the most severe</p> <p>21 discipline?</p> <p>22 MR. SCOFIELD: Object to the form.</p> <p>23 A Yes.</p>
Page 23	Page 25
<p>1 the meeting.</p> <p>2 Q Does it say who requested the meeting?</p> <p>3 A No, sir.</p> <p>4 Q Did you request the meeting?</p> <p>5 A Yes, sir.</p> <p>6 Q You did?</p> <p>7 A Yes, sir.</p> <p>8 Q So did you send this notice?</p> <p>9 A Yes, sir.</p> <p>10 Q And what is the date that you created</p> <p>11 this document?</p> <p>12 A I don't believe the creation date is on</p> <p>13 there.</p> <p>14 Q Well, whether it's on there or not,</p> <p>15 what day did you send out this notice?</p> <p>16 A I don't recall.</p> <p>17 Q What month?</p> <p>18 A February.</p> <p>19 Q 2007?</p> <p>20 A Yes, sir.</p> <p>21 Q What was the reason for sending the</p> <p>22 notice?</p> <p>23 A To supply the information to the folks</p>	<p>1 Q And what would be the options for a</p> <p>2 lesser discipline?</p> <p>3 A Anything -- anything listed within our</p> <p>4 corrective action policy.</p> <p>5 Q Which would be what? Probation?</p> <p>6 Suspension? Cut in pay? Demotion? Anything</p> <p>7 like that?</p> <p>8 A Those are not listed.</p> <p>9 Q What is listed?</p> <p>10 A There are phases of corrective action.</p> <p>11 Q Well, what are the options?</p> <p>12 A Phase 1, phase 2, phase 3, phase 4.</p> <p>13 Q And tell me what phase 1 is.</p> <p>14 A Phase 1 is an informal discussion.</p> <p>15 Q Phase 2?</p> <p>16 A Formal discussion.</p> <p>17 Q Phase 3?</p> <p>18 A Commitment discussion.</p> <p>19 Q Commitment discussion?</p> <p>20 A Yes, sir.</p> <p>21 Q And phase 4?</p> <p>22 A Decision making leave.</p> <p>23 Q And did you create those categories?</p>

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<p>1 A No, sir.</p> <p>2 Q Did you participate in their creation?</p> <p>3 A No, sir.</p> <p>4 Q Who created them?</p> <p>5 A It's my understanding Mr. Swegman.</p> <p>6 Q And tell me what a commitment decision</p> <p>7 is.</p> <p>8 A Commitment discussion would be a</p> <p>9 meeting with the Team Member, and they would be</p> <p>10 required to draft an action plan on how they</p> <p>11 plan to correct their behavior.</p> <p>12 Q And a discussion -- what's --</p> <p>13 discussion -- I didn't get phase 4.</p> <p>14 MR. SPORT: Decision making.</p> <p>15 Q What's number 4?</p> <p>16 A Decision making leave.</p> <p>17 Q Tell me what that is.</p> <p>18 A It would also require a written action</p> <p>19 plan but would also include a day off for a Team</p> <p>20 Member to reflect and determine how they should</p> <p>21 proceed.</p> <p>22 Q Any other types of disciplinary action</p> <p>23 available under Hyundai's policies at that time?</p>	<p>1 MR. SCOFIELD: Object to the form. At</p> <p>2 Hyundai?</p> <p>3 Q At Hyundai.</p> <p>4 A Yes, sir.</p> <p>5 Q Have you participated in conditional</p> <p>6 employment letters being written?</p> <p>7 A Yes, sir.</p> <p>8 Q About how many of those do you</p> <p>9 participate in in a year?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A I could only estimate.</p> <p>12 Q What's your best judgment?</p> <p>13 A Maybe ten.</p> <p>14 Q Who determined where this meeting</p> <p>15 that's on Exhibit 21 would be held?</p> <p>16 A I selected the conference room.</p> <p>17 Q And what was the name of the conference</p> <p>18 room?</p> <p>19 A The Law Library.</p> <p>20 Q Why the Law Library?</p> <p>21 MR. SCOFIELD: Object to the form.</p> <p>22 A It's not subject to schedule for anyone</p> <p>23 else, so it's availability.</p>
Page 27	Page 29
<p>1 A Also serious misconduct, which is what</p> <p>2 the termination would have been contained</p> <p>3 within.</p> <p>4 Q Well, if serious misconduct is the</p> <p>5 offense, is termination the only action that's</p> <p>6 available?</p> <p>7 A It has --</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A It has two alternatives.</p> <p>10 Q And what are those alternatives?</p> <p>11 A Termination is one and a Letter of</p> <p>12 Conditional Employment.</p> <p>13 Q What is a Letter of Conditional</p> <p>14 Employment?</p> <p>15 A It remains active for 36 months and</p> <p>16 advises the Team Member that if there are any</p> <p>17 other breaches of policy it could end in</p> <p>18 termination.</p> <p>19 Q Are you familiar with conditional</p> <p>20 employment letters?</p> <p>21 A I'm sorry. I don't understand.</p> <p>22 Q Are you familiar with conditional</p> <p>23 employment letters?</p>	<p>1 Q And why is it called the Law Library?</p> <p>2 A It's located directly next to the Legal</p> <p>3 area.</p> <p>4 Q Is the Legal area near your cubical?</p> <p>5 A Yes, sir.</p> <p>6 Q Yes?</p> <p>7 A Yes, sir.</p> <p>8 Q And it's got -- looks like time for the</p> <p>9 meeting start time was four and end time was</p> <p>10 4:30. Am I reading that right?</p> <p>11 A Yes, sir.</p> <p>12 Q And did you schedule the 30 minutes?</p> <p>13 A Yes, sir.</p> <p>14 Q Did this meeting take place?</p> <p>15 A Yes, sir.</p> <p>16 Q How long did it last?</p> <p>17 A I don't recall.</p> <p>18 Q Use your best judgment.</p> <p>19 A Between a half hour and 45 minutes.</p> <p>20 Q And did anybody attend the meeting</p> <p>21 other than those listed on Exhibit 21?</p> <p>22 A I only recall those attendees.</p> <p>23 Q Did Mr. Prater attend?</p>

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<p>1 A No, sir.</p> <p>2 Q Did Mr. Dees attend?</p> <p>3 A No, sir.</p> <p>4 Q Did Mr. Brookshire attend?</p> <p>5 A No, sir.</p> <p>6 Q Did Mr. Hughes attend?</p> <p>7 A Mr. Hughes?</p> <p>8 Q Yeah. Do you know Mr. Hughes?</p> <p>9 A May I have a full name?</p> <p>10 Q Kevin Hughes.</p> <p>11 A No, sir.</p> <p>12 Q Did you attend?</p> <p>13 A Yes, sir.</p> <p>14 Q And are all the corrective action</p> <p>15 meetings held in the Law Library?</p> <p>16 MR. SCOFIELD: Object to the form.</p> <p>17 A No, sir.</p> <p>18 Q What other locations?</p> <p>19 A It depends on the situation.</p> <p>20 Q You mean just availability or some</p> <p>21 other reason?</p> <p>22 A Mostly availability.</p> <p>23 Q Did the meeting have someone who ran</p>	<p>1 A No, sir.</p> <p>2 Q Here's a copy of Plaintiff's Exhibit</p> <p>3 16. It's entitled Team Relations Memo, February</p> <p>4 21, 2007. Is that what you passed out at the</p> <p>5 meeting?</p> <p>6 A That was contained within the packet,</p> <p>7 yes.</p> <p>8 Q So in the packet that was passed out?</p> <p>9 A Yes.</p> <p>10 Q All right. What else was in the</p> <p>11 packet?</p> <p>12 A There was a Summary Memo from myself.</p> <p>13 Q From yourself?</p> <p>14 A Yes.</p> <p>15 Q To who?</p> <p>16 A I believe it was addressed to Greg</p> <p>17 Kimble, Director of HR.</p> <p>18 Q Greg Kendall?</p> <p>19 A Kimble.</p> <p>20 Q Take a look at Exhibit 1 there and see</p> <p>21 if that is the packet that you handed out.</p> <p>22 MR. SCOFIELD: Take your time and look</p> <p>23 at the whole document. And that's, what, from</p>
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<p>1 the meeting, like chaired the meeting?</p> <p>2 A No, sir.</p> <p>3 Q So no one led the meeting?</p> <p>4 A I handed out the summaries, but I don't</p> <p>5 lead the meeting.</p> <p>6 Q Okay. And when you say summaries, I</p> <p>7 want to try to identify the summaries. I want</p> <p>8 to find out what summaries there are that were</p> <p>9 handed out. Are the summaries called Team</p> <p>10 Relations Memo?</p> <p>11 A Yes, that could be.</p> <p>12 Q I'll show it to you. Is there a set</p> <p>13 type of document that is passed out at the</p> <p>14 meeting?</p> <p>15 A Generally, it's on a Team Relations</p> <p>16 Memo document, yes, sir.</p> <p>17 Q And you were responsible for creating</p> <p>18 that?</p> <p>19 A Yes, sir.</p> <p>20 Q You were responsible for its content?</p> <p>21 A Yes, sir.</p> <p>22 Q Did anyone review the Team Relations</p> <p>23 Memo prior to you passing it out?</p>	<p>1 Wendy Warner's deposition?</p> <p>2 MR. SPORT: It's one of those files</p> <p>3 that you brought.</p> <p>4 MR. SCOFIELD: Counsel, if I can help</p> <p>5 the process. I think what Mr. Clevenger is</p> <p>6 looking at is the original Team Relations file</p> <p>7 that we produced upon request at Wendy Warner's</p> <p>8 deposition. That's what I believe that document</p> <p>9 is.</p> <p>10 MR. SPORT: Well, it was separate. You</p> <p>11 produced several files. It was separate. And</p> <p>12 from his description of the packet, it sounded</p> <p>13 like that might be it.</p> <p>14 MR. SCOFIELD: Well, that's what -- I</p> <p>15 don't want to guess here. But Mr. Clevenger</p> <p>16 will tell us if he distributed all of that.</p> <p>17 Q Okay.</p> <p>18 A It didn't contain everything.</p> <p>19 Q Could you look at Exhibit 1 and give me</p> <p>20 the date and Bates number?</p> <p>21 MR. SCOFIELD: Vince, those are going</p> <p>22 to be originals that aren't numbered.</p> <p>23 MR. KILBORN: Uh-huh.</p>

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<p>1 Q Let's see if we can do this as painless</p> <p>2 as possible. Look at Exhibit 1. The first memo</p> <p>3 in there is dated February 23, 2007 from, what,</p> <p>4 yourself to Mr. Kimble?</p> <p>5 A Yes, sir.</p> <p>6 Q That was in the packet?</p> <p>7 A Yes, sir.</p> <p>8 Q All right. And the next document looks</p> <p>9 like a handwritten note. Was that in the</p> <p>10 packet?</p> <p>11 A No, sir.</p> <p>12 MR. SCOFIELD: And if I can just</p> <p>13 interject here, Vince. That represents the</p> <p>14 original Bates number that you guys have, which</p> <p>15 is number 34, which is the second page of that</p> <p>16 memo that had attorney-client information that I</p> <p>17 redacted. I withheld the original, but you guys</p> <p>18 have the redacted version.</p> <p>19 Q The next document in that Exhibit 1 is</p> <p>20 an e-mail dated February 21, 2007 from Mr. John</p> <p>21 Applegate to yourself. It's also Defense</p> <p>22 Exhibit 6. Was that in the packet?</p> <p>23 A No, sir.</p>	<p>1 Q And I think we've already covered this</p> <p>2 one. The next document is a February 9, 2007</p> <p>3 memorandum from -- an e-mail it looks like. I</p> <p>4 can't tell whether it's a document from John</p> <p>5 Applegate to Mr. Greg Prater. Subject, Leon</p> <p>6 Dees. It looks like it's answering an e-mail</p> <p>7 from William Ware to yourself dated February 7,</p> <p>8 2007. Was that document which looks like it's</p> <p>9 got two e-mails in it -- was that in the packet?</p> <p>10 A No, sir.</p> <p>11 Q And the next document is called</p> <p>12 Discussion of Planner. Was that in the packet?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A No, sir.</p> <p>15 Q Was there anything else in the packet</p> <p>16 other than the three documents we've identified</p> <p>17 within Exhibit 1? And we'll run through those</p> <p>18 one more time to be sure.</p> <p>19 A Sure.</p> <p>20 Q That's the Owner Team Relations</p> <p>21 Memorandum, February 23, Greg Kimble to --</p> <p>22 excuse me -- from yourself to Greg Kimble; the</p> <p>23 Team Relations Memo, February 21; and the two</p>
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<p>1 Q And the next document is entitled Team</p> <p>2 Relations Memo, dated February 21, 2007, from</p> <p>3 yourself to William Ware. It's also Plaintiff's</p> <p>4 Exhibit 16. Was that in the packet?</p> <p>5 A May I clarify?</p> <p>6 Q Sure.</p> <p>7 A You said from myself to William Ware.</p> <p>8 It's from William Ware to myself.</p> <p>9 Q Excuse me. I'm sorry.</p> <p>10 A That's okay.</p> <p>11 Q That was in the packet?</p> <p>12 A Yes, sir.</p> <p>13 Q And that's also Plaintiff's Exhibit 16</p> <p>14 that sits here?</p> <p>15 A Yes, sir.</p> <p>16 Q And there's a handwritten statement --</p> <p>17 purportedly by Mr. Brookshire -- initialed at</p> <p>18 the bottom and a second statement initialed by</p> <p>19 Mr. Brookshire at the bottom. The first one</p> <p>20 being dated February 15, '07 and the second one</p> <p>21 being dated, I think, February 19, '07. Was</p> <p>22 that in the packet?</p> <p>23 A Yes, sir.</p>	<p>1 written statements by Mr. Brookshire. Was</p> <p>2 anything else in the packet?</p> <p>3 A No, sir.</p> <p>4 MR. SCOFIELD: Vince, if I might</p> <p>5 clarify. Jeff and I were having a side</p> <p>6 conversation. There's a second page of the Team</p> <p>7 Relations Memo that has Ontario King in it.</p> <p>8 That's what I have -- my handwriting is in there</p> <p>9 that says number 34. Just in fairness because</p> <p>10 that's an original redacted document that is</p> <p>11 contained in this exhibit, I think it would be</p> <p>12 appropriate to ask him with regard to this page</p> <p>13 2.</p> <p>14 MR. KILBORN: Ontario King's file was</p> <p>15 in there, too?</p> <p>16 MR. SCOFIELD: No, sir, that's not what</p> <p>17 I'm saying. I'm saying that there's another</p> <p>18 page that goes with this memorandum.</p> <p>19 Q Was there anything about Ontario King</p> <p>20 in the packet?</p> <p>21 A Yes, sir.</p> <p>22 Q What was it?</p> <p>23 A A small entry on another page</p>

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<p>1 regarding, I believe it was, his name, possibly</p> <p>2 Team Member number.</p> <p>3 Q That's for Ontario King?</p> <p>4 A Yes, sir.</p> <p>5 MR. SCOFIELD: And it's sitting right</p> <p>6 here. I'm just trying to move things along.</p> <p>7</p> <p>8 (Whereupon, Plaintiff's Exhibit</p> <p>9 Number 22 was marked for identification</p> <p>10 and copy of same is attached hereto.)</p> <p>11</p> <p>12 Q Within Plaintiff's Exhibit 2, there's a</p> <p>13 document entitled Team Relations Memo. I'm</p> <p>14 going to put Exhibit 22 on that. It's within</p> <p>15 Exhibit 2. And it's dated -- it doesn't have a</p> <p>16 date. It says revision date 9 September '04.</p> <p>17 Is that Exhibit 22 -- is that the forth document</p> <p>18 that was in the packet?</p> <p>19 A That is page 2 of this other document.</p> <p>20 Q Page 2 of your memorandum?</p> <p>21 A Yes, sir.</p> <p>22 Q So Exhibit 22 was attached to your</p> <p>23 February 23, 2007 memorandum to Mr. Greg Kimble?</p>	<p>1 Q So your job was not to recommend one</p> <p>2 way or the other?</p> <p>3 MR. SCOFIELD: Object to the form.</p> <p>4 A No, sir.</p> <p>5 Q Your job was simply to gather</p> <p>6 information and pass it out?</p> <p>7 A Yes, sir.</p> <p>8 Q And who were the decision makers?</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 A In Mr. Kimble's absence, Wendy Warner.</p> <p>11 Q And was she present?</p> <p>12 A Yes, sir.</p> <p>13 Q What was the function of the other</p> <p>14 people at the meeting? We'll just break it</p> <p>15 down. Mr. Neal, what was his function?</p> <p>16 A Advisory only.</p> <p>17 MR. SCOFIELD: Again, I reserve the</p> <p>18 privilege. I'm not going to let him testify to</p> <p>19 anything Mr. Neal may have said.</p> <p>20 Q Did Mr. Neal give any advice in the</p> <p>21 meeting?</p> <p>22 MR. SCOFIELD: I'm going to object and</p> <p>23 instruct you not to answer.</p>
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<p>1 A Yes, sir.</p> <p>2 Q All right. So it was, what, stapled to</p> <p>3 it?</p> <p>4 A Yes, sir.</p> <p>5 Q Your February 23, 2007 memorandum to</p> <p>6 Mr. Greg Kimble has a conclusion and it's got a</p> <p>7 recommendation of termination. Did you write</p> <p>8 that entire document, including the conclusion</p> <p>9 and the recommendation for termination?</p> <p>10 A There's two questions there, sir.</p> <p>11 Q Okay. Break them down. Answer both of</p> <p>12 them.</p> <p>13 A Yes, sir, I wrote the document.</p> <p>14 Q Okay.</p> <p>15 A The last sentence, the Department is</p> <p>16 asking for termination.</p> <p>17 Q All right. Did you write that?</p> <p>18 A I wrote those words, yes.</p> <p>19 Q Was that your recommendation?</p> <p>20 A That was the recommendation of the</p> <p>21 department that he works for.</p> <p>22 Q Did you have a recommendation?</p> <p>23 A No, sir.</p>	<p>1 Q Did Mr. Neal say anything?</p> <p>2 MR. SCOFIELD: Same instruction.</p> <p>3 Q Did he speak a word?</p> <p>4 MR. SCOFIELD: Same instruction.</p> <p>5 Q You're not going to answer that?</p> <p>6 MR. SCOFIELD: Under my instruction.</p> <p>7 Q You have to answer. You're not going</p> <p>8 to answer that question; is that correct?</p> <p>9 A Under -- under --</p> <p>10 MR. SCOFIELD: Advice of counsel.</p> <p>11 Q Under what?</p> <p>12 MR. SCOFIELD: He's not answering under</p> <p>13 my instruction.</p> <p>14 MR. KILBORN: I hear your advice, but</p> <p>15 he needs to answer.</p> <p>16 Q Are you going to follow your attorney's</p> <p>17 instruction?</p> <p>18 A Under advice of counsel.</p> <p>19 Q You are going to follow it?</p> <p>20 MR. SCOFIELD: Again, Vince, we'll</p> <p>21 stipulate that Mr. Neal was there, but we're not</p> <p>22 going to let you ask him any questions.</p> <p>23 MR. KILBORN: I know, but he's the</p>

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<p>1 witness. He's got to tell me if he's going to 2 not answer or not. 3 MR. SCOFIELD: And I think he did. 4 MR. KILBORN: No, he didn't. 5 Q Are you going to answer that question? 6 A Under advice of counsel, no. 7 Q Who decided to bring Ontario King's 8 file into the meeting? 9 MR. SCOFIELD: Object to the form. He 10 never testified they brought Ontario King's file 11 into the meeting. 12 Q What's the answer to the question? 13 A I did not bring Ontario King's file 14 into the meeting. 15 Q Okay. Well, who brought up the name 16 Ontario King? 17 A I put that on the document. 18 Q And why did you put that in the packet? 19 A It was a similar situation. 20 Q How was it similar? 21 A It involved sleeping while at work. 22 Q Sleeping while what? 23 A At work.</p>	<p>1 Q Was Mr. King's sleeping incident 2 discussed at all? 3 A I don't recall. 4 Q Was there a vote taken? 5 A No, sir. 6 Q Was there a decision made at the 7 meeting? 8 A Yes, sir. 9 Q Was it announced? 10 A Ms. Warner announced. 11 Q And what did she say? 12 A Termination. 13 Q Was there any discussion of any lesser 14 penalty, such as a conditional employment 15 letter? 16 A I don't recall. 17 Q Was Mr. Dees' previous employment 18 history with HMMA discussed? 19 A I don't recall. 20 Q Do you think it should have been 21 discussed? 22 MR. SCOFIELD: Object to the form. 23 A The meeting dealt with the individual</p>
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<p>1 Q Okay. Same corrective action? 2 A Yes. 3 Q All right. Same circumstances? 4 A Very similar. 5 Q All right. Did anybody discuss Ontario 6 King? 7 A I don't recall. 8 Q Did you? 9 MR. SCOFIELD: Again, this is in the 10 context of the Termination Committee meeting? 11 MR. KILBORN: In the meeting, yes. 12 A I don't recall. 13 Q Did anyone ask you who is Ontario King 14 or why is his name being given to us? 15 A I don't recall. 16 Q Was there anything dissimilar between 17 Leon Dees sleeping and Ontario King sleeping? 18 MR. SCOFIELD: Object to the form. 19 A I can only think of one thing. 20 Q What is that? 21 A Mr. King was lying down flat. 22 Q That's the only difference you recall? 23 A Yes, sir.</p>	<p>1 situation. 2 Q Would that -- 3 A The most current situation. 4 Q Well, that individual was Mr. Dees; 5 correct? 6 A And the incident of sleeping. That's 7 what was discussed. 8 Q And my question is specifically was 9 Mr. Dees' past employment history with HMMA 10 discussed at all in any way, shape, form, or 11 fashion? 12 MR. SCOFIELD: Object to the form. 13 A I don't recall. 14 Q You didn't hear it? 15 MR. SCOFIELD: Object to the form. 16 A I don't recall if it was or wasn't. 17 Q You did not include anything in his 18 employment file in your packet, did you? 19 A No, sir. 20 Q You did not include any Discussion 21 Planners that might have been had with him? 22 A No, sir. 23 Q You did not include any laudatory or</p>

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<p>1 favorable comment that HMMA had made about his</p> <p>2 work performance or job performance, did you?</p> <p>3 MR. SCOFIELD: Object to the form. You</p> <p>4 can answer.</p> <p>5 A No, sir.</p> <p>6 Q You did not include, for instance, that</p> <p>7 there was a Discussion Planner dated June 26,</p> <p>8 2006 where Mr. Dees was being described as,</p> <p>9 quote, helped greatly with SOPS? You did not</p> <p>10 include that?</p> <p>11 A No, sir.</p> <p>12 Q You did not include any Discussion</p> <p>13 Planner regarding Mr. Dees dated June 24, 2006</p> <p>14 where it was stated Leon supports all PM on</p> <p>15 SOPS; follows all safety policies of HMMA. You</p> <p>16 didn't include that in your packet, did you?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A No, sir.</p> <p>19 Q Was that discussed?</p> <p>20 A I don't recall.</p> <p>21 Q What was the issue at the committee</p> <p>22 meeting that you attended?</p> <p>23 A Sleeping while working.</p>	<p>1 A Yes, sir.</p> <p>2 Q Well, what about Mr. Brookshire being</p> <p>3 management made him more believable than</p> <p>4 Mr. Dees?</p> <p>5 A I had to take the information I was</p> <p>6 given, sir.</p> <p>7 Q But you were told by Mr. Dees he was</p> <p>8 not sleeping, absolute denial. What made</p> <p>9 Mr. Brookshire more credible than Mr. Dees?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A That area is not an area where there is</p> <p>12 a job that someone stays at.</p> <p>13 Q And who said that?</p> <p>14 A Mr. Applegate.</p> <p>15 Q Mr. Applegate?</p> <p>16 A (Witness nods head.)</p> <p>17 Q So Mr. -- I don't see -- did</p> <p>18 Mr. Applegate -- was Mr. Applegate there?</p> <p>19 A During?</p> <p>20 Q During the meeting.</p> <p>21 A For a time, yes.</p> <p>22 Q You didn't mention that before.</p> <p>23 A I believe he's on the meeting notice,</p>
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<p>1 Q Well, was there an issue of whether or</p> <p>2 not he was, in fact, sleeping?</p> <p>3 MR. SCOFIELD: Object to the form.</p> <p>4 A There was a statement by a member of</p> <p>5 management that said he was found sleeping.</p> <p>6 Q Jim Brookshire?</p> <p>7 A Yes, sir.</p> <p>8 Q There was also a statement by Mr. Dees</p> <p>9 that he was not sleeping, wasn't there?</p> <p>10 A That was -- yes, sir.</p> <p>11 Q And there were only two eye witnesses,</p> <p>12 Mr. Dees and Mr. Brookshire?</p> <p>13 A Yes, sir.</p> <p>14 Q What factors were used to determine</p> <p>15 whether Mr. Dees was telling the truth or</p> <p>16 Mr. Brookshire was telling the truth since</p> <p>17 Brookshire said he was sleeping and Dees said he</p> <p>18 wasn't?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A A member of management making a</p> <p>21 statement that Mr. Dees was sleeping.</p> <p>22 Q That carried the day because he was</p> <p>23 management?</p>	<p>1 sir.</p> <p>2 Q So Mr. Applegate, he stated that there</p> <p>3 was no reason for Mr. Dees to be in that</p> <p>4 location --</p> <p>5 MR. SCOFIELD: Object to the form.</p> <p>6 Q -- is that correct?</p> <p>7 A Yes.</p> <p>8 Q All right. Did Mr. Applegate -- strike</p> <p>9 that.</p> <p>10 Did any of the members of the meeting</p> <p>11 go to the location?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A No, sir.</p> <p>14 Q Did you ever talk to Mr. Brookshire</p> <p>15 personally?</p> <p>16 MR. SCOFIELD: Object to the form. In</p> <p>17 connection with his investigation or at any</p> <p>18 time?</p> <p>19 Q Yeah, in connection with -- well, you</p> <p>20 were the investigator in this matter, weren't</p> <p>21 you?</p> <p>22 A I collected the information.</p> <p>23 Q You used the word investigation was</p>

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<p>1 part of your job description. Were you the 2 investigator?</p> <p>3 A Yes, sir.</p> <p>4 Q And were you the one who interviewed 5 Mr. Brookshire?</p> <p>6 A No, sir.</p> <p>7 Q Who did that?</p> <p>8 A William Ware.</p> <p>9 Q William Ware?</p> <p>10 A Yes, sir.</p> <p>11 Q And was he also in the meeting?</p> <p>12 A No, sir.</p> <p>13 Q Was Mr. -- was there anything discussed 14 at the meeting or was any evidence presented at 15 the meeting regarding anything about Mr. Dees' 16 past history other than the sleeping incident?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A No, sir.</p> <p>19 Q Was it discussed at the meeting that 20 Mr. Dees and Mr. Prater did not get along?</p> <p>21 A I don't recall.</p> <p>22 Q Was it discussed at the meeting that 23 Mr. Dees had e-mailed Mr. Greg Kimble on</p>	<p>1 A All the memorandums were -- would be 2 addressed to Mr. Kimble because he was the 3 director of the department.</p> <p>4 Q And you included that memorandum in 5 your packet as we've seen, didn't you?</p> <p>6 A Yes, sir.</p> <p>7 Q All right. And was Mr. Kimble at the 8 meeting?</p> <p>9 A No, sir.</p> <p>10 Q Did Mr. Kimble ever mention to you or 11 to anybody else, to your knowledge, in the 12 meeting or outside the meeting that he had 13 specifically complained to Mr. Kimble that 14 issues had arisen on his shift between 15 Mr. Prater, Kevin Hughes, and himself that he 16 had talked to Human Relations on two separate 17 occasions regarding Mr. Prater and also had 18 filed a complaint on him through his National 19 Guard unit?</p> <p>20 A I'm not aware of that, sir.</p> <p>21 Q Don't you think it would have been 22 relevant to a termination to cover the subject 23 of a complaint made by the employee being</p>
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<p>1 February 5, 2007 regarding a problem he was 2 experiencing regarding his National Guard duty?</p> <p>3 A I don't recall that.</p> <p>4 Q I want to show you what's been marked 5 previously as Defendant's -- that's HMMA's -- 6 Exhibit 4. I'll show you this e-mail. Was that 7 e-mail discussed or the contents of it 8 discussed?</p> <p>9 A I don't recall that being discussed at 10 all.</p> <p>11 Q Did you know the existence of this 12 e-mail at the time of the meeting where 13 termination was recommended?</p> <p>14 A No, sir.</p> <p>15 Q You did have communication with 16 Mr. Kimble before the meeting, did you not?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A I don't recall when Mr. Kimble left on 19 medical leave.</p> <p>20 Q Well, you know that he had -- you had 21 sent him a memorandum dated February 23, 2007 on 22 the subject of Mr. Dees and the sleeping; 23 correct?</p>	<p>1 terminated regarding his National Guard duty 2 that had been submitted in writing?</p> <p>3 MR. SCOFIELD: Object to the form.</p> <p>4 A The subject of the meeting, sir, is 5 whether he was sleeping on the job.</p> <p>6 Q All right. So you don't think that 7 e-mail should have been discussed at all, do 8 you?</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 A No, sir.</p> <p>11 Q Did Mr. Kimble ever tell you about this 12 problem Mr. Dees had made regarding his National 13 Guard duty?</p> <p>14 A No, sir.</p> <p>15 Q And you had no knowledge of it?</p> <p>16 A No, sir.</p> <p>17 Q Take a look if you would at the Exhibit 18 1 there which has the documents in the packet 19 that you submitted to the committee. There are 20 two statements in there. One dated 2-15-07 and 21 one dated 12-19-07. They have Bates numbers at 22 the bottom of 37 and 38. Those are handwritten 23 statements called Interview with Jim</p>

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<p>1 Brookshire. Do you see that? Plaintiff's</p> <p>2 Exhibit 13. You see those two statements?</p> <p>3 A Yes, sir.</p> <p>4 Q Now, you say who took these statements?</p> <p>5 A William Ware.</p> <p>6 Q And you were not present?</p> <p>7 A No, sir.</p> <p>8 Q Why did he take the statements -- you</p> <p>9 being the investigator -- and not you?</p> <p>10 A William Ware is on second shift and I</p> <p>11 was on first shift.</p> <p>12 Q So if you'd been on second shift, you</p> <p>13 would have taken the statement from</p> <p>14 Mr. Brookshire?</p> <p>15 A Possibly.</p> <p>16 Q Does he have the same job that you do,</p> <p>17 different shift?</p> <p>18 A No, sir.</p> <p>19 Q Have you taken statements before</p> <p>20 yourself like this?</p> <p>21 A Yes, sir.</p> <p>22 Q What experience do you have in taking</p> <p>23 statements?</p>	<p>1 Q So what happened? Did you just drop</p> <p>2 out or what?</p> <p>3 MR. SCOFIELD: Object to the form.</p> <p>4 A Yes, sir.</p> <p>5 Q Were you kicked out, or did you just</p> <p>6 quit?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A I didn't have the grades to stay in,</p> <p>9 sir.</p> <p>10 Q Flunked out?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A Yes, sir.</p> <p>13 Q When you applied to Hyundai for a job,</p> <p>14 did you tell them that?</p> <p>15 MR. SCOFIELD: Object to the form.</p> <p>16 A They were aware that I had no college</p> <p>17 degree, yes.</p> <p>18 Q That ain't what I asked you. Did you</p> <p>19 tell them you flunked out of college after a</p> <p>20 year and a half?</p> <p>21 A It wasn't a question asked, sir.</p> <p>22 Q That's not what I asked you. Did you</p> <p>23 tell Hyundai that you flunked out of college</p>
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<p>1 A I simply record what the individual</p> <p>2 says.</p> <p>3 Q Well, what experience and training have</p> <p>4 you had in doing that?</p> <p>5 A I have taken an investigations class.</p> <p>6 Q Have you ever been a member of law</p> <p>7 enforcement?</p> <p>8 A No, sir.</p> <p>9 Q What is your college degree in?</p> <p>10 A I don't have one, sir.</p> <p>11 Q Have you ever been in the armed</p> <p>12 services?</p> <p>13 A No, sir.</p> <p>14 Q Did you go to college?</p> <p>15 A Yes, sir.</p> <p>16 Q What college?</p> <p>17 A Indiana University.</p> <p>18 Q What series of courses did you take?</p> <p>19 A General studies.</p> <p>20 Q And how many years did you last in</p> <p>21 Indiana University?</p> <p>22 MR. SCOFIELD: Object to the form.</p> <p>23 A Approximately one and a half.</p>	<p>1 after a year and a half?</p> <p>2 MR. SCOFIELD: Same objection.</p> <p>3 A No, sir.</p> <p>4 Q There's a question on the application</p> <p>5 that says do you know of anything else that you</p> <p>6 need to tell us relative to us giving you a</p> <p>7 job. Why didn't you put that down there?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A I didn't think it was relevant.</p> <p>10 Q You knew it was relevant, you just knew</p> <p>11 it sounded bad; isn't that true?</p> <p>12 MR. SCOFIELD: Same objection. It's</p> <p>13 argumentative.</p> <p>14 A No, sir, I didn't think it was</p> <p>15 relevant.</p> <p>16 Q But you also knew it sounded bad,</p> <p>17 didn't you?</p> <p>18 MR. SCOFIELD: Object to the form.</p> <p>19 A I didn't think it was relevant.</p> <p>20 Q That's not my question. You knew it</p> <p>21 sounded bad, didn't you?</p> <p>22 MR. SCOFIELD: Object to the form.</p> <p>23 A No, sir.</p>

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<p>1 Q Well, what happened after you flunked 2 out? 3 MR. SCOFIELD: Same objection. 4 A I attended a technical college. 5 Q What kind of technical college? 6 A IVY Tech. 7 Q IVY Tech? 8 A Yes, sir. 9 Q As in intravenous? 10 A I-V-Y. 11 Q What's that mean? 12 A Indiana Vocational -- and I honestly 13 don't know what the last stands for. 14 Q And what course of study did you take 15 there? 16 A Mechanical drawing. 17 Q And how long did you last there? 18 MR. SCOFIELD: Object to the form. 19 A One year. 20 Q Did you get a certificate, or did you 21 graduate? 22 A No, sir. 23 Q What happened there?</p>	<p>1 drawings? 2 A That was -- that's the only one that I 3 recall, sir. 4 Q Were you learning how to be a plumber? 5 A No, sir. 6 Q You learned how to draw plumbing 7 systems? 8 A No, sir. 9 MR. SCOFIELD: Object to the form. 10 Q What were you learning how to be? 11 A It's the actual parts. 12 Q Designing plumbing parts? 13 A No, sir. 14 Q Well, give me a hint. This isn't a -- 15 A It was simply drawing -- 16 MR. SCOFIELD: Object to the form. 17 A -- already existing parts. 18 Q Like an artist copying existing parts? 19 A No, sir. 20 Q Well, just take me through that. In 21 other words, you put a plumbing part on the 22 table and you would draw it? 23 A Measure and draw it and apply -- apply</p>
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<p>1 A I received a full-time job. 2 Q So you never graduated? 3 A No, sir. 4 Q How much further did you have to go 5 before you graduated? 6 MR. SCOFIELD: Object to the form. 7 A I don't know. 8 Q Well, say, another semester or another 9 year? Give me some judgment. 10 MR. SCOFIELD: Object to the form. 11 A I don't recall. 12 Q What did you learn how to do? 13 MR. SCOFIELD: Object to the form. 14 A It was drafting classes, mechanical 15 drawing. 16 Q Buildings, piping systems, heating 17 systems, cooling systems, or what? 18 A The drawings were mechanical items. 19 Q HVAC or what? Electric? 20 A No, sir. I remember plumbing 21 specifically, sir. 22 Q So you learned how to do plumbing 23 drawings. What other kind of mechanical</p>	<p>1 measurements to the different pieces. 2 Q What does that entitle you to do or 3 prepare you to do in life? 4 MR. SCOFIELD: Object to the form. 5 A It was teaching the skill of mechanical 6 drawing. 7 Q All right. So you were basically 8 learning how to sketch things? 9 A No, sir. They're mechanical drawings. 10 Q So you could draw a faucet for 11 instance? 12 A That would be one of the -- that could 13 be one of the outcomes, yes. 14 Q All right. Did you ever do anything 15 with this mechanical drawing course that you 16 took that you didn't finish? 17 MR. SCOFIELD: Object to the form. 18 A No, sir. 19 Q So that was a waste of time? 20 MR. SCOFIELD: Object to the form. 21 A No, sir. 22 Q So have you ever used it? 23 A No, sir.</p>

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<p>1 Q What courses -- you said general -- I</p> <p>2 forget the word you used. When you were at</p> <p>3 Indiana University and flunked out, what course</p> <p>4 of studies were you following? Social studies</p> <p>5 or chemistry or physics or math or what?</p> <p>6 MR. SCOFIELD: Object to the form. I</p> <p>7 think he testified general study.</p> <p>8 Q What's general? History? Philosophy?</p> <p>9 A Economics, algebra.</p> <p>10 Q You flunked algebra, huh?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A Yes.</p> <p>13 Q Did you flunk calculus?</p> <p>14 A I didn't take calculus.</p> <p>15 Q Did you flunk trigonometry?</p> <p>16 A I didn't take trigonometry.</p> <p>17 Q Was this a state university?</p> <p>18 A Yes.</p> <p>19 Q So nobody at Hyundai knows that you</p> <p>20 flunked out of college?</p> <p>21 MR. SCOFIELD: Object to the form.</p> <p>22 Q You never told them?</p> <p>23 A No, sir.</p>	<p>1 Q So you flunked out of Indiana</p> <p>2 University after you had the job at Service</p> <p>3 Merchandise?</p> <p>4 A Yes.</p> <p>5 Q Well, let me get the chronology</p> <p>6 straight. You did graduate from high school?</p> <p>7 A Yes.</p> <p>8 Q Did you get a GED or a diploma?</p> <p>9 A Diploma.</p> <p>10 Q After that, what did you do? Go to</p> <p>11 work for Service Merchandise?</p> <p>12 A While going to school.</p> <p>13 Q While going to Indiana University?</p> <p>14 A Yes, sir.</p> <p>15 Q Okay. And then you flunked out, so you</p> <p>16 kept the job at Service Merchandise?</p> <p>17 A Yes.</p> <p>18 Q How long did you last there?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A Until 1988.</p> <p>21 Q How many years was that?</p> <p>22 A Eight.</p> <p>23 Q What position did you hold when you</p>
Page 63	Page 65
<p>1 Q Okay. So you didn't follow this</p> <p>2 plumbing drawing career. You got -- you say you</p> <p>3 got a job?</p> <p>4 A Yes, sir.</p> <p>5 Q How old were you when you got this job?</p> <p>6 A I believe 18.</p> <p>7 Q What job was it?</p> <p>8 A Working at Service Merchandise.</p> <p>9 Q Doing what?</p> <p>10 A Working in their electronics department</p> <p>11 as a salesperson.</p> <p>12 Q So this was something new, selling</p> <p>13 electronics?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 A Yes.</p> <p>16 Q Well, you said you got this new job at</p> <p>17 age 18?</p> <p>18 A Yes.</p> <p>19 Q Well, how old were you when you flunked</p> <p>20 out of college?</p> <p>21 MR. SCOFIELD: Object to the form.</p> <p>22 A I believe Indiana University would --</p> <p>23 approximately 19 and a half.</p>	<p>1 left?</p> <p>2 A Manager of electronics department.</p> <p>3 Q And while you had that job, were you</p> <p>4 ever subject to any type of disciplinary action</p> <p>5 whatsoever?</p> <p>6 A No, sir.</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 Q All right. And why did you leave</p> <p>9 Service Merchandise?</p> <p>10 A To go to work for Subaru Isuzu Indiana.</p> <p>11 Q Subaru Isuzu?</p> <p>12 A Automotive.</p> <p>13 Q That's the same company?</p> <p>14 A Yes, sir.</p> <p>15 Q And where was that located?</p> <p>16 A Lafayette, Indiana.</p> <p>17 Q And what did you do there?</p> <p>18 A I was an associate, production</p> <p>19 associate.</p> <p>20 Q What does that mean?</p> <p>21 A I built cars.</p> <p>22 Q Were you in the Maintenance Department?</p> <p>23 A No, sir.</p>

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<p>1 Q What type of trade were you in?</p> <p>2 MR. SCOFIELD: Object to the form.</p> <p>3 A There was no trade. I worked on the</p> <p>4 line.</p> <p>5 Q So you weren't a welder?</p> <p>6 A No, sir.</p> <p>7 Q You were not a millwright?</p> <p>8 A No, sir.</p> <p>9 Q You weren't a plumber or electrician?</p> <p>10 A No, sir.</p> <p>11 Q You just worked?</p> <p>12 A Assembly.</p> <p>13 Q Assembly?</p> <p>14 A Uh-huh.</p> <p>15 Q So this was something new to you, I</p> <p>16 take it?</p> <p>17 A Yes, sir.</p> <p>18 Q So working with your hands?</p> <p>19 A Yes, sir.</p> <p>20 Q All right. How long did you have that</p> <p>21 job?</p> <p>22 A Until 2003.</p> <p>23 Q That's when you went to work for</p>	<p>1 A Yes.</p> <p>2 Q You have a class on that?</p> <p>3 A It was written material.</p> <p>4 Q All right. Like a book to tell you how</p> <p>5 to do investigations?</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 Q Or a manual?</p> <p>8 A A manual, I'd say.</p> <p>9 Q So you read the manual on how to do it?</p> <p>10 A Yes.</p> <p>11 Q And I guess you left that at SIA when</p> <p>12 you left?</p> <p>13 A Yes.</p> <p>14 Q Because that was company property?</p> <p>15 A Yes, sir.</p> <p>16 Q All right. Other than reading the</p> <p>17 manual on how to do investigations, did you have</p> <p>18 any other training, like videos or classes or</p> <p>19 anything like that?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A Not at SIA.</p> <p>22 Q Okay. Up to going to work for Hyundai,</p> <p>23 have I covered all of your employment history?</p>
Page 67	Page 69
<p>1 Hyundai?</p> <p>2 A Yes, sir.</p> <p>3 Q And what were you doing at Subaru Isuzu</p> <p>4 when you left?</p> <p>5 A Specialist in Team Relations.</p> <p>6 Q And what did that mean?</p> <p>7 A Team Relations Specialist works out on</p> <p>8 the floor talking to Team Members, advising on</p> <p>9 policy and procedure.</p> <p>10 Q What department were you in?</p> <p>11 A General Assembly.</p> <p>12 Q General Assembly?</p> <p>13 A Yes, sir.</p> <p>14 Q Were you doing for Subaru -- what's the</p> <p>15 name of the company? Give me a name for it.</p> <p>16 A The acronym is SIA.</p> <p>17 Q When you worked for SIA, were you doing</p> <p>18 investigations?</p> <p>19 A I participated.</p> <p>20 Q Participated?</p> <p>21 A (Witness nods head.)</p> <p>22 Q Did they train you how to do</p> <p>23 investigations?</p>	<p>1 A Yes.</p> <p>2 Q So up until today, have you ever</p> <p>3 yourself personally been subject to any type of</p> <p>4 job action or corrective action or disciplinary</p> <p>5 action?</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 A No.</p> <p>8 Q And how was it that at SIA you switched</p> <p>9 from being on the assembly line to this job in</p> <p>10 Team Relations Specialist?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A The job was posted on our board.</p> <p>13 Q Posted. So you took the job?</p> <p>14 A I applied and was accepted.</p> <p>15 Q When you applied for that job, did you</p> <p>16 tell them that you had flunked out of Indiana</p> <p>17 University and that you failed to ever complete</p> <p>18 any type of course in anything?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A That wasn't a question asked. No.</p> <p>21 Q And you didn't tell them?</p> <p>22 A No, sir.</p> <p>23 Q You have never been arrested or charged</p>

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<p>1 with a crime, have you?</p> <p>2 A No, sir.</p> <p>3 MR. SCOFIELD: Object to the form.</p> <p>4 Q Do you abuse alcohol or drugs, such as</p> <p>5 cocaine?</p> <p>6 A No, sir.</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 Q Do you know Jim Brookshire?</p> <p>9 A Yes, sir.</p> <p>10 Q Do you know about his drug and alcohol</p> <p>11 problem?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A I know that situation, yes.</p> <p>14 Q How do you know it?</p> <p>15 A I was made aware by our medical client.</p> <p>16 Q Who is that?</p> <p>17 A Industrial Care Management.</p> <p>18 Q Industrial Care Management?</p> <p>19 A (Witness nods head.)</p> <p>20 Q Is that some division or department of</p> <p>21 Hyundai?</p> <p>22 A No, sir.</p> <p>23 Q And what does Industrial Care</p>	<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A It comes to me to present the</p> <p>3 corrective action to that Team Member.</p> <p>4 Q Is that some policy in force that</p> <p>5 whenever Team Members are caught with cocaine in</p> <p>6 their system or alcohol in their system while on</p> <p>7 the job or even off the job you're supposed to</p> <p>8 be notified?</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 A I'm notified if they fail a drug screen.</p> <p>11 Q And that's company policy?</p> <p>12 A Yes, sir.</p> <p>13 Q How about if they show up drunk or</p> <p>14 smelling of alcohol on the job?</p> <p>15 MR. SCOFIELD: Object to the form.</p> <p>16 A Then they would be taken to the clinic</p> <p>17 and the clinic would determine.</p> <p>18 Q Well, most people are taken to the</p> <p>19 drunk take. Why are they taken to the clinic?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A The clinic performs a test to determine</p> <p>22 whether they're under the influence.</p> <p>23 Q So they do a urinalysis?</p>
Page 71	Page 73
<p>1 Management do?</p> <p>2 A They operate our clinic.</p> <p>3 Q Medical clinic?</p> <p>4 A Yes, sir.</p> <p>5 Q And you have an office in the</p> <p>6 Administration Building doing investigations and</p> <p>7 assembling corrective action material and</p> <p>8 writing policy?</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 A Yes, sir.</p> <p>11 Q So what are you doing having</p> <p>12 communications with Industrial Care Management</p> <p>13 or the medical clinic about Jim Brookshire?</p> <p>14 A They contacted me regarding a possible</p> <p>15 failure of a drug test.</p> <p>16 Q What would you have to do with that?</p> <p>17 A Once I receive a confirmation that the</p> <p>18 drug test was failed, then there would be a</p> <p>19 corrective action applied.</p> <p>20 Q Did you get the confirmation?</p> <p>21 A Yes, sir.</p> <p>22 Q Since that's pretty personal</p> <p>23 information, how did you get that?</p>	<p>1 A I believe they have an alcohol...</p> <p>2 Q Breath test?</p> <p>3 A Yes, sir.</p> <p>4 Q The street version or the real one?</p> <p>5 MR. SCOFIELD: Object to the form.</p> <p>6 A I'm not aware of what the machine -- I</p> <p>7 don't know which machine, sir.</p> <p>8 Q Well, did you also find out that</p> <p>9 Mr. Brookshire had an alcohol abuse problem?</p> <p>10 A No, sir.</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 Q You didn't know he was going to AA,</p> <p>13 Alcoholics Anonymous, for an alcohol problem?</p> <p>14 A No, sir.</p> <p>15 Q You didn't know he was going through</p> <p>16 the AA 12 step program, the first of which is</p> <p>17 you have to admit that you're an alcoholic?</p> <p>18 MR. SCOFIELD: Object to the form.</p> <p>19 A No, sir.</p> <p>20 Q You didn't know he was going through</p> <p>21 the 12 step drug abuse program where the first</p> <p>22 step is you've got to admit you're addicted to</p> <p>23 drugs?</p>

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<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 Asked and answered.</p> <p>3 Q You didn't know that either?</p> <p>4 A No, sir.</p> <p>5 Q Well, would the fact that your chief</p> <p>6 witness, Jim Brookshire, was caught on company</p> <p>7 property with cocaine in his system -- would</p> <p>8 that have anything to do with his credibility in</p> <p>9 your mind?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A No, sir.</p> <p>12 Q You don't use cocaine yourself, I take</p> <p>13 it?</p> <p>14 A No, sir.</p> <p>15 Q So you don't know about the</p> <p>16 debilitating effects it has on the human body,</p> <p>17 do you?</p> <p>18 MR. SCOFIELD: Object to the form.</p> <p>19 A No, sir.</p> <p>20 Q Was Mr. Brookshire ever asked was he on</p> <p>21 cocaine on the night he was supposed to have</p> <p>22 seen Dees sleeping?</p> <p>23 MR. SCOFIELD: Object to the form.</p>	<p>1 in their system, don't you?</p> <p>2 A Yes, sir.</p> <p>3 Q You know it's very bad for people to do</p> <p>4 that, don't you?</p> <p>5 A Yes.</p> <p>6 Q And you know that people who abuse</p> <p>7 drugs and alcohol tend to lie about it, don't</p> <p>8 you?</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 A I don't know that, sir.</p> <p>11 Q Have you ever spoken with</p> <p>12 Mr. Brookshire about this cocaine and alcohol?</p> <p>13 A No, sir, not in depth. I was only</p> <p>14 involved in the corrective action.</p> <p>15 Q So tell me about that. What did he</p> <p>16 admit to?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A There was no request for an admission.</p> <p>19 I took the information. Once I was notified, I</p> <p>20 contacted Wendy Warner. She's the manager of</p> <p>21 employment. At that time, I was instructed to</p> <p>22 assemble a serious misconduct document and then</p> <p>23 a meeting took place between Wendy,</p>
Page 75	Page 77
<p>1 A No, sir.</p> <p>2 Q How do you know he wasn't on cocaine</p> <p>3 that night?</p> <p>4 A I don't, sir.</p> <p>5 Q Was he ever asked had he been drinking</p> <p>6 that night?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A No, sir.</p> <p>9 Q How do you know he hadn't been</p> <p>10 drinking?</p> <p>11 A I don't, sir.</p> <p>12 Q In your experience, does cocaine or</p> <p>13 alcohol in a person's system affect their</p> <p>14 ability to see and recognize and process events?</p> <p>15 MR. SCOFIELD: Object to the form.</p> <p>16 A Can you ask that again, please?</p> <p>17 Q I'll put it simpler. You know people</p> <p>18 are charged with murder if they kill people when</p> <p>19 they're drinking and driving, don't you?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A Yes.</p> <p>22 Q And you know people are charged with</p> <p>23 murder if they kill people when they have drugs</p>	<p>1 Mr. Brookshire, and myself where Wendy</p> <p>2 administered the corrective action.</p> <p>3 Q Was this the same type of meeting that</p> <p>4 is described in this Plaintiff's Exhibit 21,</p> <p>5 this notification regarding Mr. Dees?</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 A No, sir. This was a serious misconduct</p> <p>8 meeting.</p> <p>9 Q I thought Dees' was a serious</p> <p>10 misconduct meeting?</p> <p>11 A In this instance, he was put into a</p> <p>12 corrective action serious misconduct.</p> <p>13 Q Well, what was the difference in</p> <p>14 Brookshire and Dees? They both had a meeting,</p> <p>15 but one of them was serious misconduct and one</p> <p>16 of them was not. Explain that to me.</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A We have a drug and alcohol policy that</p> <p>19 states that's the step that is taken.</p> <p>20 Q So drug and alcohol abuse on company</p> <p>21 property is considered a lesser offense than</p> <p>22 sleeping, I take it?</p> <p>23 MR. SCOFIELD: Object to the form.</p>

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<p>1 A No, sir.</p> <p>2 Q Well, aren't both serious misconduct?</p> <p>3 A Yes, sir.</p> <p>4 Q Was sleeping serious misconduct?</p> <p>5 A Yes, sir.</p> <p>6 Q Was using cocaine serious misconduct?</p> <p>7 A Having the substance in his system was</p> <p>8 a serious misconduct.</p> <p>9 Q Okay. Well, why didn't Brookshire have</p> <p>10 the same kind of meeting that Dees did?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A I was notified that he failed a drug</p> <p>13 screen. That's what triggered the serious</p> <p>14 misconduct.</p> <p>15 Q But I'm asking you why were the two</p> <p>16 treated differently.</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A He was not under the influence when the</p> <p>19 drug test took place.</p> <p>20 Q How do you know that?</p> <p>21 A The clinic does a Fit for Duty test.</p> <p>22 Q So he got a second test; is that</p> <p>23 correct?</p>	<p>1 A I don't know, sir.</p> <p>2 Q Was it a physical test, a written</p> <p>3 test --</p> <p>4 MR. SCOFIELD: He just said he --</p> <p>5 Q -- dexterity test or what?</p> <p>6 MR. SCOFIELD: He just said he didn't</p> <p>7 know, Vince.</p> <p>8 A I don't know, sir.</p> <p>9 Q As far as you know, it could be a</p> <p>10 swimming test?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 Argumentative.</p> <p>13 Q Is that correct?</p> <p>14 A I don't know what the test consists of.</p> <p>15 MR. SCOFIELD: Vince, we've been going</p> <p>16 about an hour and a half. When you have an</p> <p>17 opportunity, we'd like a short break.</p> <p>18 Q Well, who told you to do -- who told</p> <p>19 you to let's have a corrective action meeting on</p> <p>20 Brookshire after he flunked the drug test?</p> <p>21 A When I received the result, I went to</p> <p>22 Wendy Warner and made her aware and she</p> <p>23 instructed that I prepare the document.</p>
Page 79	Page 81
<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A It's something they perform.</p> <p>3 Q Was that performed when he was -- when</p> <p>4 he was caught with the cocaine in his system?</p> <p>5 A To my knowledge.</p> <p>6 Q And tell me about the Fit for Duty</p> <p>7 test.</p> <p>8 A I don't have any personal knowledge,</p> <p>9 sir.</p> <p>10 Q But you've read it?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A No, sir. They perform a -- what they</p> <p>13 determine a standard Fit for Duty test.</p> <p>14 Q Well, tell me what you know about it.</p> <p>15 A I only know that if they say -- if they</p> <p>16 pass somebody fit for duty, then they're not</p> <p>17 under the influence.</p> <p>18 Q So it's not your business to go behind</p> <p>19 what they say?</p> <p>20 A No, sir.</p> <p>21 Q Well, what did they do to determine</p> <p>22 Brookshire was fit for duty?</p> <p>23 MR. SCOFIELD: Object to the form.</p>	<p>1 Q But you did interview Brookshire?</p> <p>2 A No, sir.</p> <p>3 Q You said you talked to Brookshire?</p> <p>4 A In the corrective action meeting, we</p> <p>5 administered the corrective action.</p> <p>6 Q And what questions was he asked and</p> <p>7 what did he say?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A I don't remember him being asked any</p> <p>10 questions.</p> <p>11 Q Well, was he and you just don't</p> <p>12 remember what they are?</p> <p>13 A Ms. Warner read the corrective action</p> <p>14 to him, and then he was told that he would be</p> <p>15 taken to our clinic and that they would arrange</p> <p>16 the treatment program.</p> <p>17 Q Now, you said it was 36 months, I</p> <p>18 think, conditional employment?</p> <p>19 A Drug and alcohol is 24.</p> <p>20 Q And what's 36?</p> <p>21 A A Letter of Conditional Employment.</p> <p>22 Q And do you get updates on how he's</p> <p>23 doing on his conditional employment letter?</p>

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<p>1 A I do not, sir.</p> <p>2 Q Is he still employed?</p> <p>3 A Yes, sir.</p> <p>4 Q Is he given random drug tests?</p> <p>5 A Yes, sir.</p> <p>6 Q Do you get those results?</p> <p>7 A I do not, sir.</p> <p>8 Q If he failed a random drug test, what</p> <p>9 would happen to him?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A Then I would be notified.</p> <p>12 Q What would your recommendation be?</p> <p>13 A At that point, I would simply turn the</p> <p>14 information over to Ms. Warner.</p> <p>15 Q And what would her recommendation be?</p> <p>16 MR. SCOFIELD: Object to the form.</p> <p>17 A I don't know, sir.</p> <p>18 Q Well, you know his conditional</p> <p>19 employment -- what the conditions of that</p> <p>20 conditional employment are, don't you?</p> <p>21 A Yes, sir.</p> <p>22 Q And that means if you get caught again,</p> <p>23 you're terminated, doesn't it?</p>	<p>1 A No, sir.</p> <p>2 Q Who do you talk to at the medical</p> <p>3 clinic about Brookshire?</p> <p>4 MR. SCOFIELD: Object to the form.</p> <p>5 A There's a clinic manager, and she would</p> <p>6 call me.</p> <p>7 Q What's her name?</p> <p>8 A Her first name is Debra.</p> <p>9 Q And what's her last name?</p> <p>10 A I don't remember at this time.</p> <p>11 Q Now, Mr. Brookshire, as a condition of</p> <p>12 his continued employment letter, he has to agree</p> <p>13 to release all information about his drug and</p> <p>14 alcohol usage and treatment to Hyundai, doesn't</p> <p>15 he?</p> <p>16 A Yes, sir.</p> <p>17 Q So Hyundai has complete access to that</p> <p>18 as a condition, do they not?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A That's my understanding.</p> <p>21 Q And he goes to, what, an outside clinic</p> <p>22 called Alabama Psychiatric Services?</p> <p>23 A I believe that's the name, sir.</p>
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<p>1 A Yes, sir.</p> <p>2 Q So that's what would happen to him;</p> <p>3 right?</p> <p>4 MR. SCOFIELD: Object to the form.</p> <p>5 A I would assume that would be her</p> <p>6 direction.</p> <p>7 Q All right. What do you think getting</p> <p>8 terminated for drugs in your system would do to</p> <p>9 his career?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A I don't know, sir.</p> <p>12 Q What do you think it would do to your</p> <p>13 career if you got terminated for that?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 A I don't know.</p> <p>16 Q Wouldn't be good, would it?</p> <p>17 A I would suspect not.</p> <p>18 Q What do you think that Mr. Dees getting</p> <p>19 fired for sleeping did to his career?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A I don't know, sir.</p> <p>22 Q Did you ever once talk to Leon Dees</p> <p>23 about this sleeping?</p>	<p>1 Q Dr. Shaw?</p> <p>2 A That, I don't know, sir.</p> <p>3 Q You don't know who he is?</p> <p>4 A No.</p> <p>5 Q Does he send reports to Hyundai on</p> <p>6 what's happening?</p> <p>7 A To Debra.</p> <p>8 Q To Debra. She reads them?</p> <p>9 A I assume so.</p> <p>10 Q And she shares whatever is in there she</p> <p>11 thinks is relevant to you?</p> <p>12 A No, sir.</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 Q Who does she share that with?</p> <p>15 A I would only be contacted if he failed</p> <p>16 a drug screen.</p> <p>17 Q Okay. Have you ever been to this</p> <p>18 Alabama Psychiatric Services?</p> <p>19 A No, sir.</p> <p>20 Q Do you know what they do?</p> <p>21 A I don't, sir.</p> <p>22 Q Have you got any other involvement with</p> <p>23 the medical clinic or any disciplinary action</p>

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<p>1 involving them?</p> <p>2 A No, sir.</p> <p>3 Q Do you know anything about the drug and</p> <p>4 alcohol abuse program?</p> <p>5 A I know what our policy states.</p> <p>6 Q Okay. What does it state?</p> <p>7 A It states that if there is a failure</p> <p>8 due to a random drug screen or due to a drug</p> <p>9 screen because of an accident, then that Team</p> <p>10 Member would be put into the treatment program.</p> <p>11 Q And what happened to Mr. Brookshire was</p> <p>12 he got caught because he cut his hand, didn't</p> <p>13 he?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 A I honestly don't know the reason that</p> <p>16 the screen was done, sir.</p> <p>17 Q Well, don't you know that he was using</p> <p>18 cocaine and he cut his hand and he didn't think</p> <p>19 anybody at Hyundai would know about it, but he</p> <p>20 cut his hand and y'all did a test and they said,</p> <p>21 got you, you got cocaine?</p> <p>22 MR. SCOFIELD: Object to the form.</p> <p>23 Q Isn't that what happened?</p>	<p>1 A No, sir.</p> <p>2 Q Do you know if the medical clinic or</p> <p>3 Debra evaluated Mr. Brookshire's fitness for</p> <p>4 duty based in part at least on any of those drug</p> <p>5 screens or random reports from Alabama</p> <p>6 Psychiatric Services?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A I don't have any knowledge, sir.</p> <p>9 Q His treatment for drug and alcohol</p> <p>10 abuse is that relevant to his fitness for duty?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A I don't have anything to do with that</p> <p>13 process.</p> <p>14 Q So you don't know if it's relevant?</p> <p>15 A No, sir.</p> <p>16 Q Would it be relevant to you?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A If I'm notified that he's failed a</p> <p>19 screen, then I would have to take that</p> <p>20 information to Ms. Warner.</p> <p>21 Q Look at those two statements that we've</p> <p>22 got there, 2-15-07 and 2-19-07, as Plaintiff's</p> <p>23 Exhibit 13. Do you know of any information that</p>
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<p>1 A I was made aware that he had failed a</p> <p>2 screen.</p> <p>3 Q Did anybody at this meeting -- this</p> <p>4 corrective action meeting -- ask him are you</p> <p>5 addicted to drugs or do you use cocaine or do</p> <p>6 you use alcohol? Anybody ask him that?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A No, sir.</p> <p>9 Q Why wouldn't that be relevant?</p> <p>10 A At the meeting that I attended with</p> <p>11 Wendy Warner, the corrective action was being</p> <p>12 administered.</p> <p>13 Q So it had already been decided?</p> <p>14 A Yes, sir.</p> <p>15 Q What evidence did you gather as part of</p> <p>16 your investigation to take that corrective</p> <p>17 action against Brookshire?</p> <p>18 MR. SCOFIELD: Object to the form.</p> <p>19 Q Other than the drug screen he failed?</p> <p>20 A The failure of the drug screen.</p> <p>21 Q Okay. Were any questions asked about</p> <p>22 prior usage of alcohol or drugs?</p> <p>23 MR. SCOFIELD: Object to the form.</p>	<p>1 these two statements are not credible?</p> <p>2 A No, sir.</p> <p>3 Q In your February 23, 2007 report to</p> <p>4 Mr. Greg Kimble -- that's the one with the</p> <p>5 conclusion the Department is asking for</p> <p>6 termination -- in the second paragraph it</p> <p>7 says -- third line down -- two doors of the</p> <p>8 panel were open, which served as a blind, and</p> <p>9 hide Leon from most views. See that?</p> <p>10 A Yes, sir.</p> <p>11 Q Did you write that?</p> <p>12 A Yes, sir.</p> <p>13 Q What information did you base your</p> <p>14 statement that the two doors of the panel served</p> <p>15 as a blind and hide Leon from most views? What</p> <p>16 did you base that on?</p> <p>17 A That was communicated to me.</p> <p>18 Q By who?</p> <p>19 A Mr. Applegate.</p> <p>20 Q Verbally?</p> <p>21 A Verbally.</p> <p>22 Q There's nothing in Mr. Brookshire's</p> <p>23 statements to that effect?</p>

23 (Pages 86 to 89)

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<p>1 A (Witness reviews documents.) No, sir.</p> <p>2 Q Well, what did Mr. Brookshire's two</p> <p>3 statements dated February 15th and 19th of '07,</p> <p>4 Plaintiff's Exhibit 13 -- what in there</p> <p>5 indicates that the two panels were used as a</p> <p>6 blind to hide Mr. Dees from view?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A Can you repeat the question?</p> <p>9 Q What in these two statements say that?</p> <p>10 A It does not.</p> <p>11 Q Well, where in the statements does it</p> <p>12 say that -- well, where does it even refer to</p> <p>13 panels?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 A In the second paragraph, it mentions</p> <p>16 cabinet.</p> <p>17 Q Yeah, it mentions cabinet, but it says</p> <p>18 Leon Dees sitting at operating station, Leon was</p> <p>19 positioned with his head down and his back was</p> <p>20 toward the cabinet. I see that. Where does</p> <p>21 that talk about panels being positioned as a</p> <p>22 blind to hide Mr. Dees?</p> <p>23 A It does not.</p>	<p>1 says his location was at the RO1 station. What</p> <p>2 does that mean?</p> <p>3 A It's my understanding that's the --</p> <p>4 that's the cabinet referred to in this</p> <p>5 station -- or in this statement.</p> <p>6 Q Well, who told you that?</p> <p>7 A That's the -- that's the physical name</p> <p>8 of the station. Mr. Applegate told me.</p> <p>9 Q Mr. Applegate told you that?</p> <p>10 A Yes.</p> <p>11 Q What does RO stand for?</p> <p>12 A I don't know, sir.</p> <p>13 Q And you never knew?</p> <p>14 A No, sir.</p> <p>15 Q Don't have a clue?</p> <p>16 A No, sir.</p> <p>17 Q What does the 1 stand for?</p> <p>18 A I don't know, sir.</p> <p>19 Q So Mr. Applegate told you that</p> <p>20 Mr. Brookshire said the panels -- the two doors</p> <p>21 of the panel were opened which served as a blind</p> <p>22 hide Leon from most views. That's something</p> <p>23 Mr. Applegate told you?</p>
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<p>1 Q Well, Mr. Brookshire was the only one</p> <p>2 who saw it, wasn't he?</p> <p>3 A Yes.</p> <p>4 Q But he didn't say in either statement</p> <p>5 that there was panels positioned to make a blind</p> <p>6 to hide Dees, does he?</p> <p>7 A No.</p> <p>8 Q And, in fact, in the document two days</p> <p>9 previous to that that Mr. William Ware wrote to</p> <p>10 you, February 21, 2007 -- if you'll look at</p> <p>11 that, Defendant's Exhibit 1. It's also</p> <p>12 Plaintiff's Exhibit 16. Where in there do you</p> <p>13 see anything about panels being positioned to</p> <p>14 create a blind to hide Mr. Dees?</p> <p>15 A I don't see anything there, sir.</p> <p>16 Q There's not even a mention of a blind</p> <p>17 or hiding or a panel even, is there?</p> <p>18 A No, sir.</p> <p>19 Q As a matter of fact in this, there's</p> <p>20 not even a mention of the cabinet, is it?</p> <p>21 A No, sir.</p> <p>22 Q In this document, the February 21, 2007</p> <p>23 Team Relations Memo from Ware to yourself, it</p>	<p>1 A There seems to be more than one piece</p> <p>2 there, sir.</p> <p>3 Q Well, I'm reading from the February 23,</p> <p>4 2007 memo from Clevenger to Kimble, Bates number</p> <p>5 33 at the bottom. It says two doors of panel</p> <p>6 were open which served as a blind and hide Leon</p> <p>7 from most views. Is your testimony that</p> <p>8 Applegate told you that?</p> <p>9 A Yes, sir.</p> <p>10 Q Brookshire didn't tell you that, did</p> <p>11 he?</p> <p>12 A No, sir.</p> <p>13 Q And nobody else told you that, did</p> <p>14 they?</p> <p>15 A Mr. Applegate.</p> <p>16 Q Except Mr. Applegate?</p> <p>17 A Except Mr. Applegate.</p> <p>18 Q And he wasn't there, was he?</p> <p>19 A No, sir.</p> <p>20 Q So where did he get the information?</p> <p>21 A I don't know, sir.</p> <p>22 Q He'd have to get it from somewhere,</p> <p>23 wouldn't he?</p>

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<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A I would assume so, sir.</p> <p>3 Q And where could he have gotten that</p> <p>4 information from?</p> <p>5 MR. SCOFIELD: Object to the form.</p> <p>6 A I don't know, sir.</p> <p>7 Q Well, that was key information in this</p> <p>8 memo, wasn't it?</p> <p>9 A No, sir.</p> <p>10 MR. SCOFIELD: Same objection.</p> <p>11 Q It wasn't? Why wasn't it key?</p> <p>12 A The sleeping was the -- is the incident</p> <p>13 that we're discussing.</p> <p>14 Q Well, you spend -- you spend a whole</p> <p>15 paragraph about -- about this discussion of the</p> <p>16 sitting in front of the panel, he's asleep, the</p> <p>17 two doors of the panel were open that served as</p> <p>18 a blind to hide him. Why did you think all that</p> <p>19 would be relevant?</p> <p>20 A It was information that I was told.</p> <p>21 Q By Applegate?</p> <p>22 A Yes, sir.</p> <p>23 Q Now, where is Mr. Applegate's statement</p>	<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A Because I'm just responsible to put the</p> <p>3 information that I'm told in the report.</p> <p>4 Q All right.</p> <p>5 MR. SCOFIELD: There's --</p> <p>6 Q There's nothing in this report that you</p> <p>7 left out?</p> <p>8 MR. SCOFIELD: I'm going to let him</p> <p>9 answer this question and then we're going to</p> <p>10 take a five-minute break.</p> <p>11 Q Did you leave anything out of this</p> <p>12 report?</p> <p>13 A Not that I'm aware.</p> <p>14 Q Well, didn't you --</p> <p>15 MR. SCOFIELD: Let's take a break.</p> <p>16 Q -- leave out the name of another</p> <p>17 witness?</p> <p>18 MR. SCOFIELD: We're going to take a</p> <p>19 five-minute break. We can come back to that</p> <p>20 question.</p> <p>21</p> <p>22 (Whereupon, a brief recess was had in</p> <p>23 the proceeding.)</p>
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<p>1 in the packet?</p> <p>2 A There isn't one, sir.</p> <p>3 Q Why isn't there one by Mr. Applegate?</p> <p>4 A There wasn't one taken, sir.</p> <p>5 Q Why not?</p> <p>6 A He wasn't there that evening.</p> <p>7 Q But if he wasn't there that evening,</p> <p>8 then why would what he said happened be believed</p> <p>9 by anybody including you?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A That particular piece is only</p> <p>12 information that I was given. It's not key.</p> <p>13 It's not the reason that this report was</p> <p>14 generated.</p> <p>15 Q Well, why did you, Rob Clevenger, see</p> <p>16 fit to put it in your report?</p> <p>17 A Because I was told that.</p> <p>18 Q You were told to put it in, or you were</p> <p>19 just told it?</p> <p>20 A Or I was told the information.</p> <p>21 Q Well, why did you put it in the report</p> <p>22 rather than leaving it out if it wasn't</p> <p>23 important?</p>	<p>1 BY MR. KILBORN:</p> <p>2 Q Mr. Clevenger, if you'd take a look at</p> <p>3 that February 21, 2007 memo from William Ware to</p> <p>4 yourself, which is within Exhibit 1. It was</p> <p>5 also in the packet given to the meeting. And</p> <p>6 it's also Plaintiff's Exhibit 16. Is this a</p> <p>7 report from William Ware to yourself on his</p> <p>8 interviews with Dees, Ware, and Prater?</p> <p>9 A Yes.</p> <p>10 Q It states that Dees denies he was</p> <p>11 sleeping, does it not?</p> <p>12 A Yes.</p> <p>13 Q It states that he asked that Brookshire</p> <p>14 be called in to confront him at that time, does</p> <p>15 it not?</p> <p>16 MR. SCOFIELD: Object to the form. He</p> <p>17 being Dees?</p> <p>18 MR. KILBORN: Dees. Correct.</p> <p>19 A Yes.</p> <p>20 Q It states that Dees says he was sitting</p> <p>21 in a chair text messaging his daughter due to</p> <p>22 bad weather outside, does it not?</p> <p>23</p>

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<p>1 A Yes.</p> <p>2 Q It states that the location was the RO1</p> <p>3 station?</p> <p>4 A Yes.</p> <p>5 Q It doesn't mention the panel, nor does</p> <p>6 it mention the panel doors, nor does it mention</p> <p>7 anything about the cabinet at all, does it?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A I'm not familiar with the location of</p> <p>10 RO Station 1. I believe that that's the cabinet</p> <p>11 referred to in the statement.</p> <p>12 Q Does it mention the panel doors?</p> <p>13 A No, sir.</p> <p>14 Q Does it mention the hiding?</p> <p>15 A No, sir.</p> <p>16 Q Isn't it true that the Ontario King</p> <p>17 matter was brought up at the -- what did you</p> <p>18 call this meeting?</p> <p>19 A It's a Term Discussion.</p> <p>20 Q Term Discussion?</p> <p>21 A Termination Discussion.</p> <p>22 Q Termination Discussion referred to in</p> <p>23 Plaintiff's Exhibit 21.</p>	<p>1 panel doors was because it made it a more</p> <p>2 egregious type of a sleeping; isn't that true?</p> <p>3 A The location itself is outside normal</p> <p>4 view. That's the similarity.</p> <p>5 Q Similarity also both of them were</p> <p>6 intentionally trying to hide outside of the</p> <p>7 normal view; isn't that true?</p> <p>8 A They were both outside of normal view,</p> <p>9 yes.</p> <p>10 Q They were both doing that</p> <p>11 intentionally? In other words, they were both</p> <p>12 hiding according to your understanding?</p> <p>13 A That is my understanding.</p> <p>14 Q Right. And so the fact that you -- the</p> <p>15 reason why you put in the statement about two</p> <p>16 doors of the panel were open which served as a</p> <p>17 blind and hide Leon from most views was because</p> <p>18 that showed the similarity with Ontario King;</p> <p>19 isn't that true?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A No, sir.</p> <p>22 Q Does it, in fact, show a similarity to</p> <p>23 Ontario King?</p>
Page 99	Page 101
<p>1 MR. KILBORN: Read me back the</p> <p>2 question.</p> <p>3</p> <p>4 (Whereupon, the last question was</p> <p>5 read by the Reporter.)</p> <p>6</p> <p>7 MR. KILBORN: Strike that.</p> <p>8 Q Isn't it true that the Ontario King</p> <p>9 termination was brought up at this termination</p> <p>10 meeting because that was a case where Mr. King</p> <p>11 had made a bed and that was one of the factors</p> <p>12 in his termination, that it was -- he had</p> <p>13 basically made a bed and it was a fairly</p> <p>14 egregious type of sleeping?</p> <p>15 A He was outside normal view, yes.</p> <p>16 Q And so to make the comparison to Dees,</p> <p>17 the relevance of the blind and the hiding by the</p> <p>18 panel doors was because it would be outside of</p> <p>19 normal view with that in place, wouldn't it?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A Yes.</p> <p>22 Q So the importance of Ontario King and</p> <p>23 the importance of making of the blind with the</p>	<p>1 A They were both outside normal view.</p> <p>2 That's the similarity.</p> <p>3 Q I think you said you went to some kind</p> <p>4 of investigative class at Hyundai?</p> <p>5 MR. SCOFIELD: Object to the form.</p> <p>6 A I was employed at Hyundai when I went</p> <p>7 to the seminar, yes.</p> <p>8 Q What was the name of the seminar?</p> <p>9 A I believe it was just Investigations.</p> <p>10 Q Did it tell you how to do</p> <p>11 investigations?</p> <p>12 A It went through the process, yes, sir.</p> <p>13 Q Okay. Tell me what it did -- what it</p> <p>14 said.</p> <p>15 MR. SCOFIELD: Object to the form.</p> <p>16 A It discussed taking -- taking</p> <p>17 information from a complainant and any</p> <p>18 witnesses.</p> <p>19 Q Did it discuss how to do that?</p> <p>20 A Yes, sir.</p> <p>21 Q Did it discuss how to take a statement</p> <p>22 from a witness?</p> <p>23 A Yes, sir.</p>

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<p>1 Q And did it discuss how to take</p> <p>2 statements like Mr. Brookshire's two statements?</p> <p>3 A Yes, sir.</p> <p>4 Q And did it instruct you to take</p> <p>5 statements from all witnesses?</p> <p>6 A Yes, sir.</p> <p>7 Q What is the reason why an investigator</p> <p>8 such as yourself would take statements from all</p> <p>9 witnesses?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A To gather information.</p> <p>12 Q Well, it's to find the truth, isn't it?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A To gather the information that the</p> <p>15 witnesses have.</p> <p>16 Q To ultimately determine the truth?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A Or a course of action.</p> <p>19 Q Well, doesn't that course of action</p> <p>20 have to be based on the truth?</p> <p>21 A That wouldn't be my decision, sir.</p> <p>22 Q They didn't teach you that in</p> <p>23 investigatory school?</p>	<p>1 asleep. So, therefore, I believe he was asleep.</p> <p>2 Q Well, what about Dees' denial that he</p> <p>3 was asleep?</p> <p>4 A (No response.)</p> <p>5 Q Where is the statement from Dees that</p> <p>6 denies he was asleep?</p> <p>7 A The information taken from the meeting</p> <p>8 and Mr. Ware's report.</p> <p>9 Q Well, where is the statement like</p> <p>10 Brookshire's signed by Dees?</p> <p>11 A I don't have that, sir.</p> <p>12 Q Well, Dees would certainly be a witness</p> <p>13 to what happened, wouldn't he?</p> <p>14 A This information collected in this memo</p> <p>15 is the information that I received.</p> <p>16 Q Well, wouldn't it be important to get a</p> <p>17 statement from Dees?</p> <p>18 A This is the information that was</p> <p>19 collected when they met with him.</p> <p>20 Q Well, what about a statement like</p> <p>21 Mr. Ware took from Mr. Brookshire? Where is</p> <p>22 that type of statement, a written statement?</p> <p>23 MR. SCOFIELD: Object to the form.</p>
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<p>1 A That would rest with the decision</p> <p>2 makers, sir. I simply collected the</p> <p>3 information.</p> <p>4 Q Well, as an information collector, are</p> <p>5 you interested in arriving at the truth?</p> <p>6 A That's not part of my function. I just</p> <p>7 collect the information from the witnesses.</p> <p>8 Q Isn't it part of your function to get</p> <p>9 truthful information?</p> <p>10 A It's part of my -- it's part of my</p> <p>11 responsibility to ask for the information.</p> <p>12 Q All right. And are you taught at all</p> <p>13 how to separate truth from fiction?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 A I don't recall that being part of the</p> <p>16 information, sir.</p> <p>17 Q Well, do you believe Dees was asleep?</p> <p>18 A I wasn't a decision maker, sir.</p> <p>19 Q Did you understand my question?</p> <p>20 A I do.</p> <p>21 Q What's the answer?</p> <p>22 A I just collected the information. I</p> <p>23 believe that the statement taken says he was</p>	<p>1 A This is the information that Mr. Dees</p> <p>2 stated in that meeting.</p> <p>3 Q I know. But that's not my question.</p> <p>4 Where is the written statement like Brookshire</p> <p>5 gave to that?</p> <p>6 A I don't have that, sir. This is the</p> <p>7 information that Mr. Ware recorded in that</p> <p>8 meeting.</p> <p>9 Q Well, I know what this is. You've</p> <p>10 repeated it three times. I want to know where</p> <p>11 is Dees' written statement.</p> <p>12 MR. SCOFIELD: Object to the form. I</p> <p>13 think he's trying to answer your question.</p> <p>14 A I don't have -- I don't have something</p> <p>15 written by Mr. Dees, sir.</p> <p>16 Q Well, if you took a class on</p> <p>17 investigating and there are two people in the</p> <p>18 sleeping incident, Brookshire and Dees, why</p> <p>19 wouldn't you take a statement from Dees just</p> <p>20 like you did from Brookshire?</p> <p>21 MR. SCOFIELD: Object to the form.</p> <p>22 A The information contained in this memo</p> <p>23 is what Mr. Dees stated.</p>

27 (Pages 102 to 105)

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<p>1 Q But it's not in the same form, is it?</p> <p>2 A No, sir.</p> <p>3 Q It's not signed, is it?</p> <p>4 A No, sir.</p> <p>5 Q It's not dated, is it?</p> <p>6 A The memo is dated.</p> <p>7 Q Well, the memo is dated, but there's no</p> <p>8 Dees statement dated, is there?</p> <p>9 A No, sir.</p> <p>10 Q And Mr. Ware interviewed both Mr. Dees</p> <p>11 and Mr. Brookshire, didn't he?</p> <p>12 A Yes, sir.</p> <p>13 Q But he failed to take a statement from</p> <p>14 Dees like he did from Brookshire, didn't he?</p> <p>15 A Mr. Prater was asking the questions.</p> <p>16 Mr. Ware was simply in the room recording what</p> <p>17 was being said.</p> <p>18 Q So Mr. Ware did not take a statement</p> <p>19 from Mr. Dees?</p> <p>20 A He was recording what Mr. Dees said.</p> <p>21 Q How was he recording it?</p> <p>22 A He was writing it down.</p> <p>23 Q Well, was there a tape-recorder?</p>	<p>1 Mr. Prater had with Mr. Dees about the sleeping</p> <p>2 incident?</p> <p>3 A Yes.</p> <p>4 Q Did Mr. John Applegate get it?</p> <p>5 A Yes.</p> <p>6 Q Was Mr. John Applegate at the</p> <p>7 termination meeting?</p> <p>8 A For a period of time, yes.</p> <p>9 Q Did you rely upon statements Mr. John</p> <p>10 Applegate gave you about the sleeping incident</p> <p>11 verbally?</p> <p>12 A Yes.</p> <p>13 Q Why didn't you take a statement from</p> <p>14 Mr. John Applegate?</p> <p>15 A He wasn't there that evening.</p> <p>16 Q But you considered what he told you</p> <p>17 relevant to the termination?</p> <p>18 A I just supplied it as information that</p> <p>19 I was told.</p> <p>20 Q Well, you included it in your</p> <p>21 memorandum of February 23rd, did you not?</p> <p>22 A I did.</p> <p>23 Q Well, since you included what Applegate</p>
Page 107	Page 109
<p>1 A No, sir.</p> <p>2 Q Why not?</p> <p>3 A We have a policy that says no</p> <p>4 tape-recorders on site.</p> <p>5 Q Was there a tape-recorder in the</p> <p>6 termination meeting?</p> <p>7 A No, sir.</p> <p>8 Q Was there a video?</p> <p>9 A No, sir.</p> <p>10 Q Look at the February 21, 2007 e-mail</p> <p>11 from John Applegate to yourself, which is in</p> <p>12 that Exhibit 1. And it's also Defendant's</p> <p>13 Exhibit 6. That's dated two days before your</p> <p>14 Team Relations Memo, isn't it?</p> <p>15 A Yes, sir.</p> <p>16 Q Did you know that this e-mail existed</p> <p>17 when you put together the packet to present to</p> <p>18 the termination meeting?</p> <p>19 A Yes, sir.</p> <p>20 Q Does it discuss Dees and the sleeping</p> <p>21 incident?</p> <p>22 A Yes.</p> <p>23 Q Does it discuss a conversation that</p>	<p>1 told you in your memorandum to this important</p> <p>2 committee that had this termination meeting and</p> <p>3 you relied upon that because you put it in this</p> <p>4 memorandum, why didn't you take a statement as a</p> <p>5 trained investigator from John Applegate who</p> <p>6 told you the information?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A He wasn't there that evening, sir.</p> <p>9 Q That's true. But you did rely upon</p> <p>10 what he told you, didn't you?</p> <p>11 A No, sir. I simply put it in the memo</p> <p>12 as information that I was told.</p> <p>13 Q Well, why did you not -- I know he</p> <p>14 wasn't at the sleeping incident, but Mr. Ware</p> <p>15 wasn't either. You weren't either. But you</p> <p>16 included Mr. Applegate's opinions in your</p> <p>17 memorandum. Why wasn't it reduced to a format</p> <p>18 that was used with Mr. Brookshire?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A Because it was information I was told</p> <p>21 verbally and Mr. Applegate wasn't there.</p> <p>22 Q Okay. Well, Mr. Brookshire's</p> <p>23 information was told verbally, too, wasn't it?</p>

28 (Pages 106 to 109)

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<p>1 A Mr. Brookshire was there, though.</p> <p>2 Q I know, but it was told verbally and</p> <p>3 then put down in statement form, wasn't it?</p> <p>4 A Yes, sir.</p> <p>5 Q Now, in discussing the Defendant's</p> <p>6 Exhibit 6 -- that's this February 21, 2007</p> <p>7 memorandum -- it discusses sleeping, it</p> <p>8 discusses Dees, it discusses the incident. It</p> <p>9 discusses the recommendation, doesn't it?</p> <p>10 MR. SCOFIELD: Vince, I'm not sure</p> <p>11 which document you're referring to.</p> <p>12 Q The e-mail that is Defendant's Exhibit</p> <p>13 6, which is also within Plaintiff's Exhibit 1,</p> <p>14 which was not in the packet that you gave to the</p> <p>15 termination meeting.</p> <p>16 MR. SCOFIELD: Can you give us the</p> <p>17 Bates number on the bottom of that?</p> <p>18 MR. KILBORN. Yeah. It's 35.</p> <p>19 MR. SCOFIELD: And it's the e-mail</p> <p>20 dated Wednesday, February 21? I just wanted to</p> <p>21 be sure we were looking at the same thing.</p> <p>22 Q At 5:20 a.m.</p> <p>23 A Yes.</p>	<p>1 William Ware when it was collected from</p> <p>2 Mr. Dees.</p> <p>3 Q So Mr. Applegate told you what to put</p> <p>4 in the packet?</p> <p>5 MR. SCOFIELD: Object to the form.</p> <p>6 A No, sir.</p> <p>7 Q Who told you to exclude this e-mail?</p> <p>8 A This information was similar to the</p> <p>9 information that was collected with Mr. Ware</p> <p>10 present, so I included this information.</p> <p>11 Q But this also has additional</p> <p>12 information, doesn't it?</p> <p>13 A (No response.)</p> <p>14 Q Well, I'll give you a hint. It's got a</p> <p>15 recommendation, doesn't it?</p> <p>16 MR. SCOFIELD: Object to the form.</p> <p>17 A Yes.</p> <p>18 Q And that's a recommendation from Greg</p> <p>19 Prater?</p> <p>20 A Yes.</p> <p>21 Q And why was he making a recommendation</p> <p>22 on Dees' termination?</p> <p>23 A I couldn't say, sir.</p>
Page 111	Page 113
<p>1 Q And you see Dees is misspelled D-E-E-Z?</p> <p>2 A Yes, sir.</p> <p>3 Q And when you made up the packet to give</p> <p>4 to the termination meeting, you knew about this</p> <p>5 e-mail?</p> <p>6 A Yes, sir.</p> <p>7 Q You knew it discusses subject matter</p> <p>8 that was going to be discussed at this meeting?</p> <p>9 A Yes, sir.</p> <p>10 Q You knew it had statements by people</p> <p>11 who claimed to have information about it?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A This is an account by Mr. Prater, sir.</p> <p>14 Q Okay. Well, what was wrong with</p> <p>15 Mr. Prater's account?</p> <p>16 MR. SCOFIELD: Object to the form.</p> <p>17 A He wasn't there.</p> <p>18 Q Well, Mr. Applegate wasn't there either</p> <p>19 but he was considered, wasn't he?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A I simply put the information that</p> <p>22 Mr. Applegate told me in that memo. Mr. Prater</p> <p>23 was present for the information from -- with</p>	<p>1 Q But he, in fact, made one?</p> <p>2 A Yes, he did.</p> <p>3 Q And he also says based on this</p> <p>4 conversation I feel that even if he were not</p> <p>5 sleeping, that he doesn't care enough about his</p> <p>6 job to prevent anyone from thinking he was</p> <p>7 sleeping; John, my recommendation, as hard as it</p> <p>8 is for me to say, termination, Greg. He says</p> <p>9 that, doesn't he?</p> <p>10 A Yes, sir.</p> <p>11 Q So his recommendation was termination</p> <p>12 whether Dees was sleeping or not, wasn't it?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A Yes, sir.</p> <p>15 Q Well, if Dees wasn't sleeping, then</p> <p>16 what did he base his recommendation on?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A Who is he in your question?</p> <p>19 MR. KILBORN: Prater.</p> <p>20 A I couldn't say, sir.</p> <p>21 Q So you don't understand this</p> <p>22 memorandum?</p> <p>23 MR. SCOFIELD: Object to the form.</p>

29 (Pages 110 to 113)

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1 A I didn't include it in the packet as
2 information for the committee. Just Mr. Ware's
3 information.

4 Q But did you specifically exclude it?

5 MR. SCOFIELD: Object to the form.

6 Q You looked at it and you decided not to
7 include it?

8 A Because Mr. Prater wasn't there.

9 Q But you included what Mr. Applegate
10 said even though he wasn't there either?

11 A Because that was information told to me
12 by the senior manager. I included the
13 information. I didn't draw any conclusion from
14 it.

15 Q Senior manager being who?

16 A Mr. Applegate.

17 Q What is it about the senior management
18 that seems to be more credible than, say, a
19 decorated National Guard Reservist --

20 MR. SCOFIELD: Object to the form.

21 Q -- with a spotless employment record at
22 Hyundai?

23 MR. SCOFIELD: Same objection.

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1 A I don't have any information on the
2 National Guard, sir.

3 Q What is Hyundai's policy on whether or
4 not orders are required for an employee to be
5 allowed to go to weekend drill?

6 A Verbal notification is accepted. Of
7 course, written orders are better. But verbal
8 notification is accepted.

9 Q And how long has that been in effect?

10 A I believe -- since day one, I believe
11 that is the requirement under USERRA.

12 Q What's USERRA?

13 A Uniform Serviceman's Act.

14 Q And when did you learn that there was a
15 law called USERRA?

16 A During my time at SIA.

17 Q Okay. And under USERRA is it permitted
18 to require orders for an employee to go to
19 weekend drill?

20 A It's my understanding it's permitted to
21 ask.

22 Q Do orders exist?

23 MR. SCOFIELD: Object to the form.

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1 A I don't know if I understand your
2 question.

3 Q Do orders exist regarding weekend
4 drill?

5 MR. SCOFIELD: Same objection.

6 A It's my understanding they can.

7 Q Well, do they?

8 A I believe they are generated in some
9 cases.

10 Q Both Mr. Brookshire and Wendy Warner
11 told me about some confusion within Hyundai
12 whether or not orders would be required from the
13 National Guard regarding that subject. In fact,
14 Brookshire told me he recalled an e-mail on that
15 subject that came out.

16 MR. SCOFIELD: Object to the form.

17 A I don't have any information as to --

18 Q You don't know anything about that?

19 A No, sir.

20 Q So there's never been any confusion
21 from day one at Hyundai about the requirement
22 that an employee has to follow to be allowed to
23 go to weekend National Guard drill?

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1 MR. SCOFIELD: Object to the form.

2 A Not on my part, sir.

3 Q How about anybody's part that you know
4 of?

5 MR. SCOFIELD: Object to the form.

6 A I am not aware. I couldn't speak for
7 everyone.

8 Q To your knowledge, it's clear?

9 A Yes, sir.

10 Q Is that set forth in writing?

11 A That is not in the policy.

12 Q All right. Has there been any
13 discussion about putting it in the policy?

14 MR. SCOFIELD: Object to the form.

15 A Not that I'm aware.

16 Q Did you ever discuss with Mr. Prater
17 his discussion with Mr. Dees about requiring
18 orders?

19 A Not that I recall.

20 Q What does Prater mean he doesn't care
21 enough about his job to prevent anyone from
22 thinking he was sleeping in this February 21,
23 2007 e-mail from Prater to Applegate?

30 (Pages 114 to 117)

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<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A I don't know, sir.</p> <p>3 Q This February 21, 2007 memo -- Team</p> <p>4 Relations Memo from William Ware to yourself --</p> <p>5 it's Plaintiff's Exhibit 16, Bates number 36.</p> <p>6 It's within your packet. Look at the reverse</p> <p>7 side. There appears to be a drawing. Tell me</p> <p>8 what you know about that.</p> <p>9 A It appears to be the area where</p> <p>10 Mr. Brookshire said Mr. Dees was sleeping.</p> <p>11 Q Was that in the packet?</p> <p>12 A No, sir.</p> <p>13 Q I thought you said that document was in</p> <p>14 the packet?</p> <p>15 A It looks to me as though someone drew</p> <p>16 this.</p> <p>17 Q Well, sure it does. But you said that</p> <p>18 this document was in the packet. Now we're</p> <p>19 looking at the reverse side. Was the reverse</p> <p>20 side given to the Termination Committee?</p> <p>21 A No, sir, I did not generate that.</p> <p>22 Q I know you didn't generate it, but was</p> <p>23 the document with the sketch on the back given</p>	<p>1 it's on there; correct?</p> <p>2 A Yes.</p> <p>3 Q It wasn't you that did it?</p> <p>4 A No, sir.</p> <p>5 Q Well, who has access to this document</p> <p>6 to be drawing the sketch on the back of it?</p> <p>7 A Only those that would have been in the</p> <p>8 discussion meeting.</p> <p>9 Q And that would have been the people on</p> <p>10 Exhibit 21?</p> <p>11 A (Indicating.)</p> <p>12 Q So you've never seen that sketch before</p> <p>13 today?</p> <p>14 A I don't recall.</p> <p>15 Q Do you know what it's a sketch of?</p> <p>16 A I believe it's the area where Mr. Dees</p> <p>17 was seen by Mr. Brookshire.</p> <p>18 Q What makes you think that?</p> <p>19 A From -- I see the chair and it appears</p> <p>20 to be a cabinet area.</p> <p>21 Q What is this right here (indicating) --</p> <p>22 MR. SCOFIELD: Object to the form.</p> <p>23 Q -- in front of the chair?</p>
Page 119	Page 121
<p>1 to the termination meeting?</p> <p>2 A No, sir.</p> <p>3 Q Why wasn't the drawing given to the</p> <p>4 meeting?</p> <p>5 A I don't know who generated that</p> <p>6 drawing.</p> <p>7 Q How do you know it wasn't given to them</p> <p>8 in the packet?</p> <p>9 A I put the packet together.</p> <p>10 Q Well, the original had this sketch on</p> <p>11 the reverse side, didn't it?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A No, sir.</p> <p>14 Q It didn't?</p> <p>15 A No, sir.</p> <p>16 Q So somebody put this sketch on it after</p> <p>17 the meeting?</p> <p>18 MR. SCOFIELD: Object to the form.</p> <p>19 A I really don't know, sir.</p> <p>20 Q Well, it wasn't on there when you gave</p> <p>21 it to them; right?</p> <p>22 A Right.</p> <p>23 Q So it must have been put on later if</p>	<p>1 A I believe that's a -- I'm only</p> <p>2 speculating. I believe it's a spool that wire</p> <p>3 is coiled on.</p> <p>4 Q I don't see any reference to a spool in</p> <p>5 any of the documents in the packet. Do you know</p> <p>6 where the spool came from?</p> <p>7 A I don't, sir. I didn't generate that</p> <p>8 drawing.</p> <p>9 Q I don't see a reference to a spool on</p> <p>10 Mr. Brookshire's two statements. Can you</p> <p>11 explain why that's not on his two statements?</p> <p>12 A No, sir.</p> <p>13 Q Does it look to you on the sketch that</p> <p>14 two panels are put in the shape of a blind to</p> <p>15 hide Mr. Dees if he was sitting in the chair?</p> <p>16 MR. SCOFIELD: Object to the form.</p> <p>17 A It appears that one door is closed and</p> <p>18 two doors are opened.</p> <p>19 Q So the door that's closed is in the</p> <p>20 middle and the two doors that are open are on</p> <p>21 the side?</p> <p>22 A Yes, sir.</p> <p>23 Q As in the shape of a blind?</p>

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<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A As the doors are open.</p> <p>3 Q Right. Well, that looks like somebody</p> <p>4 is trying to make it appear like there was a</p> <p>5 blind, doesn't it?</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 A The chair is placed in between the two</p> <p>8 doors, yes.</p> <p>9 Q And the doors are open instead of</p> <p>10 closed?</p> <p>11 A Yes.</p> <p>12 Q Well, you wrote the word blind. What</p> <p>13 did you mean?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 A That was information I was given by</p> <p>16 Mr. Applegate. I didn't draw any conclusion.</p> <p>17 Q So when you wrote the word blind, you</p> <p>18 didn't know whether it meant blind man or any</p> <p>19 other kind of blind. He said the word blind and</p> <p>20 you wrote it down not knowing what he meant?</p> <p>21 MR. SCOFIELD: Object to the form.</p> <p>22 A I included it in the context of the</p> <p>23 information that he gave me.</p>	<p>1 Q Now, my question is, is it your</p> <p>2 testimony under oath that you did not know what</p> <p>3 you meant by the word blind?</p> <p>4 A It wasn't my word. I understand what</p> <p>5 Mr. Applegate meant.</p> <p>6 Q What did he mean?</p> <p>7 A That the doors were open so as not to</p> <p>8 be able to see.</p> <p>9 Q And did he say the word hide or is that</p> <p>10 your word?</p> <p>11 A That is what Mr. Applegate stated to</p> <p>12 me, that sentence.</p> <p>13 Q Do you know what hide means?</p> <p>14 A Yes, sir.</p> <p>15 MR. SCOFIELD: Object to the form.</p> <p>16 Q What does it mean?</p> <p>17 A To be unable to see.</p> <p>18 Q Now, my question is, on the reverse of</p> <p>19 this Exhibit 16 where this sketch is, is it not</p> <p>20 true that that sketch is meant to position the</p> <p>21 panel doors so that it creates a blind to hide</p> <p>22 Mr. Dees?</p> <p>23 MR. SCOFIELD: Object to the form.</p>
Page 123	Page 125
<p>1 Q Well, what did you mean by it?</p> <p>2 A I didn't mean anything by it, sir. I</p> <p>3 took the information that he stated.</p> <p>4 Q You meant nothing by it; is that</p> <p>5 correct?</p> <p>6 A I took the information down. I put it</p> <p>7 in the report as he stated it to me.</p> <p>8 Q Is it your testimony to this federal</p> <p>9 jury that you wrote the word blind and you do</p> <p>10 not know what that meant, you did not know what</p> <p>11 you meant by it?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A It wasn't my word, sir.</p> <p>14 Q I know that. But you wrote it. Now,</p> <p>15 is it your testimony that you did not know what</p> <p>16 that meant when you wrote it?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A In the context of what Mr. Applegate</p> <p>19 said, the chair was placed between the two open</p> <p>20 doors, the area is several feet off the floor --</p> <p>21 I'm sorry. I read the wrong paragraph. Two</p> <p>22 doors of the panel to serve as a blind to hide</p> <p>23 Leon from most views.</p>	<p>1 A It appears that the doors are open,</p> <p>2 yes, sir.</p> <p>3 Q Does it appear to you --</p> <p>4 A And would conceal the chair in the</p> <p>5 middle.</p> <p>6 Q It would hide it, wouldn't it?</p> <p>7 A Yes, sir.</p> <p>8</p> <p>9 (Whereupon, Plaintiff's Exhibit</p> <p>10 Number 23 was marked for identification</p> <p>11 and copy of same is attached hereto.)</p> <p>12</p> <p>13 Q I'm going to show you, Mr. Clevenger, a</p> <p>14 series of photographs Bates numbered 344 through</p> <p>15 350. And the Bates numbers are at the bottom</p> <p>16 lower right, so we may refer to those numbers.</p> <p>17 Do you know what these pictures are?</p> <p>18 A Yes, sir.</p> <p>19 MR. SCOFIELD: Go ahead and flip</p> <p>20 through all of them.</p> <p>21 Q Have you flipped through it?</p> <p>22 A Yes, sir.</p> <p>23 Q What are they?</p>

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<p>1 A This is the area that Mr. Applegate 2 said that the incident took place. 3 Q And Hyundai has told us that these were 4 taken on March 5, 2007. Does that jibe with 5 your recollection? 6 A Yes, sir. 7 Q Did you take the pictures? 8 A Yes. 9 Q And what was the purpose? 10 A Mr. Dees had requested that his 11 termination be reviewed by a Team Member Review 12 Board. So in preparation for him starting that 13 process, I took these photos. 14 Q And how did you know where to go take 15 the photos? 16 A Mr. Applegate had shown me where the 17 incident had taken place. 18 Q Previously? 19 A During this situation. 20 Q So he was there when you took the 21 pictures? 22 A As I recall. 23 Q Anybody else?</p>	<p>1 A Yes, sir. 2 Q Does it have the request in it? 3 A Mr. Dees made that by phone. 4 Q Okay. Does it have a memo of the phone 5 call? 6 A I don't believe so. 7 Q Did you speak to him? 8 A No, sir. 9 Q Who spoke to him? 10 A He left a message. 11 Q Did you hear it? 12 A I did, sir. 13 Q Do you still have it? 14 MR. SCOFIELD: Object to the form. 15 A I don't recall. I don't know if it's 16 in my -- I don't know if it's saved or not. 17 Q Do you routinely save it? 18 A No, sir. 19 Q And what was the date of the request? 20 A I'd have to see the documents, sir. I 21 don't remember. 22 MR. KILBORN: I don't recall seeing 23 that, Trent. Could you find that?</p>
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<p>1 A I don't recall. 2 Q Did you take any more pictures other 3 than the ones here? 4 A I don't recall if there were more than 5 this or not. 6 Q Was that a company camera that you 7 used? 8 A Yes. 9 Q You still have the negatives? 10 A It's a digital camera, sir. 11 Q Do you still have those on your 12 computer? 13 A I believe so. 14 Q Is that in Dees' file? 15 A No, sir. 16 Q What file is that in? 17 A Team Member Review Request file. 18 Q Is that a computer folder that you 19 have? 20 A A folder, yes, sir. 21 Q And it's still on your computer? 22 A Yes, sir. 23 Q So Team Member Review Request?</p>	<p>1 MR. SCOFIELD: I know, Vince, there's a 2 Post-it note that Rob has on the face of Wendy 3 Warner's letter regarding the Team Member Review 4 Board. It's going to be in 1 through 5 of 5 Wendy's deposition. 6 MR. KILBORN: Is this a Post-it note? 7 MR. SCOFIELD: I mean, that's what I'm 8 recalling. It's going to be in the Team Member 9 Review -- the skinny folder -- and should be 10 just about the first page in the folder, if it's 11 what I'm thinking of. 12 MR. SPORT: There's a memo to the file. 13 MR. SCOFIELD: I'm thinking of 14 something different. 15 Q Well, let me show you this document. 16 It's within Plaintiff's Exhibit 2, which is a 17 file we were given. It's dated March 2, 2007. 18 And why don't I just put an exhibit number on 19 it. For clarity, I'll just mark it as Exhibit 20 24 within Exhibit 27 and ask you if this is what 21 you're referring to. 22 23 (Whereupon, Plaintiff's Exhibit</p>

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<p>1 Number 24 was marked for identification 2 and copy of same is attached hereto.) 3 4 A No, sir. He left a phone message on my 5 phone. 6 Q Well, that refers to a phone message. 7 A This was communicated to Nancy Powers. 8 I believe he left me a phone mail message on my 9 phone as well requesting Team Member Review. 10 Q So this is -- you were trying to get 11 ready for this review? 12 A Yes, sir. 13 MR. SCOFIELD: Vince, if I might just 14 clarify. I'm not trying to slow things down at 15 all, but I believe that's the Post-it note that 16 I had recalled that's copied on this document 17 dated March 7, 2007. 18 Q Why don't we put a Plaintiff's Exhibit 19 25 on that? 20 21 (Whereupon, Plaintiff's Exhibit 22 Number 25 was marked for identification 23 and copy of same is attached hereto.)</p>	<p>1 Q And you don't think anybody else was 2 there? 3 A I don't recall. 4 Q And the purpose of the photographs was 5 what? 6 A Team Member Review panel wouldn't 7 likely have been able to go to this area, so the 8 pictures were to allow them to view the area if 9 they asked. 10 Q So the Team Member Review committee 11 would not be allowed to go to the area? 12 A There's five -- it might be difficult 13 to get them all up there, or if they were afraid 14 of heights, it might not be possible. 15 Q So these photographs were to reproduce 16 the scene? 17 MR. SCOFIELD: Object to the form. 18 A All I did was take photos of the area 19 at the time. I didn't reproduce anything. I 20 just took photos of the area. 21 Q So these photographs are exactly how 22 you saw the area when you went up to take the 23 photographs?</p>
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<p>1 2 Q And look at Plaintiff's Exhibit 25, 3 which is a letter to Dees dated March 7, 2007 4 from Warner stating that Dees must meet with you 5 on Monday, March 12th, with a Post-it note on 6 it. Is that what you're referring to? 7 A Can you ask that question again, 8 please? 9 Q Is that what you're referring to when 10 you say you have seen a message or something 11 relating to a message from Dees that he wanted a 12 review, or is there something else? 13 A He left a phone mail message on my 14 machine specifically requesting Team Member 15 Review. 16 Q And you took these photographs to get 17 ready for that? 18 A Yes, sir. 19 Q Exhibit 23? 20 A Yes, sir. 21 Q And you believe Mr. Applegate was 22 there? 23 A Yes, sir.</p>	<p>1 A On that day. 2 Q On March the 5th? 3 A Yes, sir. 4 Q 2007? 5 A Yes, sir. 6 Q So you walked up the stairs to the 7 third floor mezzanine where the control panel 8 was and this is what you saw? 9 A Yes, during that day. 10 Q Do you know what time of day or night 11 it was? 12 A It was during the day, sir, but I don't 13 remember what time. 14 Q And that would include Bates number 15 345, the second photograph? 16 A Yes, sir. 17 Q So when you first saw this, the chair 18 and the spool and the door panels were exactly 19 like they appear in the photograph? 20 A Yes, sir. 21 Q Nothing was moved an inch; correct? 22 A I didn't -- I just took the photos of 23 that area, sir. I didn't touch anything.</p>

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<p>1 Q You didn't touch a thing?</p> <p>2 A No, sir.</p> <p>3 Q So your fingerprints wouldn't be on</p> <p>4 anything; right?</p> <p>5 MR. SCOFIELD: Object to the form.</p> <p>6 A No, sir.</p> <p>7 MR. SPORT: Can we go off the Record a</p> <p>8 second?</p> <p>9</p> <p>10 (Whereupon, a discussion was held off</p> <p>11 the Record.)</p> <p>12</p> <p>13 BY MR. KILBORN:</p> <p>14 Q Mr. Clevenger, when you walked up the</p> <p>15 stairs to the third floor mezzanine and stood in</p> <p>16 front of the panel, you're telling me that you</p> <p>17 saw what appears on Bates number 0345 exactly as</p> <p>18 it appears?</p> <p>19 A Yes, sir.</p> <p>20 Q Nobody touched a thing as far as you</p> <p>21 know?</p> <p>22 A I don't know if they did or not. When</p> <p>23 I walked up, I just took a picture of the area</p>	<p>1 A They're body side panels, yes.</p> <p>2 Q You've got pictures of the panels in</p> <p>3 Bates numbers -- they appear clearly in 348,</p> <p>4 349, and 350, don't they?</p> <p>5 A Yes, sir.</p> <p>6 Q And they're in 47 but it's a bad</p> <p>7 photograph, you can't hardly see them?</p> <p>8 A Yes, sir.</p> <p>9 Q And as far as you know, the control</p> <p>10 panel controls these trolleys?</p> <p>11 A As far as I know, sir.</p> <p>12 Q And does it control the stopping and</p> <p>13 starting of the trolleys?</p> <p>14 A As far as I know, sir.</p> <p>15 Q Had you ever been in this location</p> <p>16 before you took the photograph?</p> <p>17 A No, sir.</p> <p>18 Q Do you know why the chair was there?</p> <p>19 A I don't, sir.</p> <p>20 Q Do you know where the chair went after</p> <p>21 the photograph was taken?</p> <p>22 A I don't, sir.</p> <p>23 Q Do you know why the spool was there?</p>
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<p>1 so that the area could be viewed.</p> <p>2 Q And did Mr. Applegate say there it is</p> <p>3 and then you took the shot?</p> <p>4 A Yes.</p> <p>5 Q So the chair was there, the spool was</p> <p>6 there, the panel was there, and the panels were</p> <p>7 in the same position they appear on Bates number</p> <p>8 345 when you took the picture and when you</p> <p>9 walked up the stairs and viewed it for the first</p> <p>10 time?</p> <p>11 A Yes.</p> <p>12 Q And is it your understanding that this</p> <p>13 is RO1?</p> <p>14 A That's my understanding.</p> <p>15 Q Do you know what this panel does?</p> <p>16 A I believe it controls the panel</p> <p>17 carriers that are in that mezzanine area.</p> <p>18 Q The trolleys?</p> <p>19 A Yes, sir.</p> <p>20 Q The trolleys hold the door panels to</p> <p>21 the automobiles and they go around. And you've</p> <p>22 got pictures, I think, of the panels on the</p> <p>23 trolleys in 350, don't you?</p>	<p>1 A I don't, sir.</p> <p>2 Q Do you know where the spool went after</p> <p>3 the photograph?</p> <p>4 A I don't, sir.</p> <p>5 Q And if you look at the sketch on the</p> <p>6 reverse side of Plaintiff's Exhibit 16, that</p> <p>7 appears to be very similar to the photograph,</p> <p>8 doesn't it, 345?</p> <p>9 A Yes, sir.</p> <p>10 Q You've got a chair, a spool, and door</p> <p>11 panels that were open; correct?</p> <p>12 A Yes, sir.</p> <p>13 Q And you've got the middle door panel is</p> <p>14 closed and the two on the outside are open?</p> <p>15 A Yes, sir.</p> <p>16 Q And it looks like one could say that</p> <p>17 this photograph would be a picture of a blind if</p> <p>18 someone were sitting in that chair to hide that</p> <p>19 person, wouldn't it?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A It could be, sir.</p> <p>22 Q Now, then, 346, the next photograph, it</p> <p>23 appears to me that the panels are closed and the</p>

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<p>1 spool and the chair have been moved. Who moved 2 it?</p> <p>3 A I don't know, sir.</p> <p>4 Q Did you take this photograph?</p> <p>5 A I did, sir.</p> <p>6 Q Well, what happened between frame 7 number 345 and 346?</p> <p>8 A I don't know, sir. That was during a 9 working day and I was up there for a period of 10 time. When I snapped this photo, that's how it 11 was represented.</p> <p>12 Q By who?</p> <p>13 A I don't know, sir.</p> <p>14 Q So you took both photographs and you 15 don't know who moved the chair, the spool, or 16 the door panels?</p> <p>17 A No, sir.</p> <p>18 Q Do you know why they were moved?</p> <p>19 A I don't, sir.</p> <p>20 Q Do you know why you took a picture of 21 them in their moved position and the panels 22 being shut?</p> <p>23 A I don't, sir. I just took several</p>	<p>1 A This is a working area.</p> <p>2 Q Well, I understand. But you were there 3 with the camera, weren't you?</p> <p>4 A Yes, sir.</p> <p>5 Q Well, explain to me how you can take a 6 photograph, 345, with two big door panels open 7 and a chair and a spool sitting and your next 8 frame, 346, is completely different and you 9 don't have an explanation and you're the one 10 that took the photographs?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A This is a very large area. And these 13 side panel areas are quite -- several feet away 14 from the other picture, and it's a working 15 area. I don't know who was up there working or 16 who would have changed the -- or moved the 17 chairs.</p> <p>18 Q Well, did you leave?</p> <p>19 A No, sir. I was on the other side of 20 the mezzanine taking these other photos.</p> <p>21 Q Well, let me get this straight. You're 22 standing there with a camera and you take 345 23 and then all of a sudden everything is changed</p>
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<p>1 photos that day.</p> <p>2 Q Well, why did you even take a 3 photograph of 346?</p> <p>4 A I don't know, sir. I just was taking 5 several photos to try to show the area.</p> <p>6 Q So you, Rob Clevenger, who has been to 7 Hyundai investigatory class who was handling an 8 important matter like termination took a 9 photograph, 345 and 346, of the scene of the 10 sleeping and you don't know why the two 11 photographs are different?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A These photos were taken after the 14 situation, sir. These were for a different 15 purpose.</p> <p>16 Q I know. But they were taken at the 17 same time, weren't they?</p> <p>18 A All the photos were taken at the same 19 time, yes.</p> <p>20 Q Well, who changed the scene between the 21 two frames?</p> <p>22 A I don't know, sir.</p> <p>23 MR. SCOFIELD: Object to the form.</p>	<p>1 and you take 346, and you can't tell me who did 2 the change?</p> <p>3 MR. SCOFIELD: Object to the form.</p> <p>4 A I don't know, sir.</p> <p>5 Q You can't tell me who did the change?</p> <p>6 A No, sir.</p> <p>7 Q And you didn't do it?</p> <p>8 A No, sir.</p> <p>9 Q And the only one there was Applegate?</p> <p>10 A Mr. Applegate was with me. I don't 11 know if there was anyone else up there. I don't 12 recall.</p> <p>13 Q So somebody must have -- some ninja 14 must have slipped in and made this change right 15 in front of your eyes and Applegate's and you 16 didn't see it?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 Q Is that what happened?</p> <p>19 MR. SCOFIELD: Vince, I don't think 20 he's ever testified that these are the 21 sequential order he took the pictures in. 22 That's how they were produced.</p> <p>23 MR. KILBORN: Well, I'm trying to get</p>

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<p>1 to the truth.</p> <p>2 Q Is that what happened?</p> <p>3 MR. SCOFIELD: Object to the form.</p> <p>4 A Sir, I didn't see anyone change the</p> <p>5 area.</p> <p>6 Q But the pictures were taken at the same</p> <p>7 time?</p> <p>8 A During the same time frame.</p> <p>9 Q Well, within how many minutes of each</p> <p>10 other?</p> <p>11 A I would say approximately 30.</p> <p>12 Q So you were up there for 30 minutes?</p> <p>13 A Approximately.</p> <p>14 Q With Applegate?</p> <p>15 A Yes, sir.</p> <p>16 Q And in 30 minutes, you took 1, 2, 3, 4,</p> <p>17 5, 6, 7 pictures?</p> <p>18 A Yes, sir.</p> <p>19 Q What were you doing the rest of the</p> <p>20 time?</p> <p>21 A I was walking through that area, sir.</p> <p>22 It's very high off the ground. I wasn't moving</p> <p>23 very fast.</p>	<p>1 trolleys, 348, 349, 350?</p> <p>2 A No one, sir. I was just trying to</p> <p>3 capture the area so that if the Team Member</p> <p>4 Review Board asked to see the area that I would</p> <p>5 be able to represent it to them.</p> <p>6 Q Why didn't you take a picture from the</p> <p>7 ground floor looking up at the chair in front of</p> <p>8 the panel so that one could clearly see that</p> <p>9 somebody standing on the floor could clearly see</p> <p>10 somebody in the chair?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A It didn't occur to me, sir. I was</p> <p>13 trying to show the area up there.</p> <p>14 Q So you didn't have any particular</p> <p>15 agenda in these photographs?</p> <p>16 A No, sir.</p> <p>17 Q You were just seeking the truth?</p> <p>18 MR. SCOFIELD: Object to the form.</p> <p>19 A I had no agenda, sir. I was just</p> <p>20 trying to represent the area.</p> <p>21 Q And did you direct any of these shots,</p> <p>22 or was it Applegate?</p> <p>23 A No one directed the shots, sir. I took</p>
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<p>1 Q Well, what's the significance of 345 as</p> <p>2 opposed to 346?</p> <p>3 A I just took the pictures to show the</p> <p>4 Team Member Review Board. I didn't hold one in</p> <p>5 more significance than another.</p> <p>6 Q Well, you were planning on showing the</p> <p>7 Team Member Review Board both 345 and 346?</p> <p>8 A If they asked to see the area.</p> <p>9 Q What were you going to tell them about</p> <p>10 the difference in the two pictures?</p> <p>11 A I wasn't going to tell them anything,</p> <p>12 sir. It's not my role in that meeting to tell</p> <p>13 them anything other than if they asked to see it</p> <p>14 then I would be able to show it to them.</p> <p>15 Q You will agree with me that some live</p> <p>16 person actually moved the spool and the chair</p> <p>17 and closed the panels?</p> <p>18 A Yes, sir.</p> <p>19 Q It wasn't a spook or anything --</p> <p>20 A No, sir.</p> <p>21 Q -- or some magic that occurred, was it?</p> <p>22 A No, sir.</p> <p>23 Q And who told you to take pictures of</p>	<p>1 those photos of the area to try to show the</p> <p>2 whole area.</p> <p>3 Q But you knew that there had been a memo</p> <p>4 written by yourself where Applegate told you two</p> <p>5 doors of the panel were open which served as a</p> <p>6 blind and hide Leon from most views. You knew</p> <p>7 that, didn't you?</p> <p>8 A That is what Mr. Applegate had told me.</p> <p>9 Q And you were trying to depict that in</p> <p>10 photograph number 345, weren't you?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A No, sir. That was as it was when I</p> <p>13 took that picture. That was not staged.</p> <p>14 Q Well, I wouldn't insinuate that. Where</p> <p>15 did you get that idea?</p> <p>16 MR. SCOFIELD: Object to the form.</p> <p>17 Q Where did you get the idea of staged?</p> <p>18 A You had mentioned it earlier.</p> <p>19 Q Staging?</p> <p>20 A You had mentioned did I recreate that</p> <p>21 area.</p> <p>22 Q All right. Well, you and Applegate</p> <p>23 didn't that, didn't you?</p>

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<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A No, sir.</p> <p>3 Q That's exactly what you and Applegate</p> <p>4 did; isn't that true?</p> <p>5 A No, sir.</p> <p>6 Q You and Applegate staged these</p> <p>7 photographs; isn't that true, Mr. Clevenger?</p> <p>8 A No, sir.</p> <p>9 Q You tried to stage the area to create a</p> <p>10 blind so you could back up what Applegate had</p> <p>11 told you; isn't that true?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A No, sir.</p> <p>14 Q Was this area like what's shown in 345</p> <p>15 or 346 since Mr. Dees has been terminated?</p> <p>16 A Ask me that one more time, please.</p> <p>17 Q Was this area just like it was when</p> <p>18 Dees was terminated, 345, 346?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A That area is as it was that day.</p> <p>21 Q Okay. And I noticed, for instance,</p> <p>22 there's another chair, and it's shown in 348.</p> <p>23 How did that chair get over there?</p>	<p>1 A Yes, sir.</p> <p>2 Q And the purpose of a chair is for</p> <p>3 somebody to sit in, isn't it?</p> <p>4 A Yes, sir.</p> <p>5 Q So obviously somebody was sitting in</p> <p>6 that chair, wasn't it?</p> <p>7 A I don't know, sir.</p> <p>8 Q So you have no explanation for the</p> <p>9 chair in front of the control panel on March the</p> <p>10 5th or the chair in picture photograph number</p> <p>11 348?</p> <p>12 A I don't, sir. All I know is when</p> <p>13 there's a fault, Maintenance goes up there.</p> <p>14 It's not a normal working area. I don't know</p> <p>15 why the chair was there.</p> <p>16 Q What is a fault?</p> <p>17 A Regarding the trolley or carriers.</p> <p>18 Q I don't understand. Tell me.</p> <p>19 A When they stop working.</p> <p>20 Q They stop working.</p> <p>21 A (Witness nods head.)</p> <p>22 Q So what does this control panel have to</p> <p>23 do with that?</p>
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<p>1 A That was there as well.</p> <p>2 Q What are chairs doing up there?</p> <p>3 A I don't know, sir.</p> <p>4 Q I thought people weren't supposed to be</p> <p>5 up there?</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 Q Didn't you tell me earlier that this</p> <p>8 was in a place where people are not supposed to</p> <p>9 be and in particular Dees wasn't supposed to be</p> <p>10 there?</p> <p>11 A No. I said it's not a normal working</p> <p>12 area.</p> <p>13 Q Well, what's a chair doing there?</p> <p>14 A I don't know, sir.</p> <p>15 Q The purpose of a chair is for a human</p> <p>16 being to sit in, isn't it?</p> <p>17 A Yes, sir.</p> <p>18 Q So you had a chair when you came up to</p> <p>19 take the photographs on March the 5th sitting in</p> <p>20 front of the control panel, didn't you?</p> <p>21 A No, sir.</p> <p>22 Q The chair was sitting there when you</p> <p>23 walked up, wasn't it?</p>	<p>1 A The control panel, to my knowledge,</p> <p>2 controls those trolleys.</p> <p>3 Q So if -- you say if there's a fault,</p> <p>4 you have to go up there to look at the control</p> <p>5 panel?</p> <p>6 A A Maintenance person would, yes.</p> <p>7 Q Like Dees?</p> <p>8 A Yes.</p> <p>9 Q Does this control panel need periodic</p> <p>10 inspection and examination to see if it's</p> <p>11 working right?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A Not to my knowledge, sir.</p> <p>14 Q It's like a big computer, isn't it?</p> <p>15 A I'm not -- I don't know, sir.</p> <p>16 Q You don't know. So you don't know</p> <p>17 anything about what's inside the control panel?</p> <p>18 A No, sir.</p> <p>19 Q It just looks like a lot of wires?</p> <p>20 A To me, sir.</p> <p>21 Q Were the trolleys operational when you</p> <p>22 took these photographs?</p> <p>23 A Yes, the area was running.</p>

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<p>1 Q Okay. And this is on up in the top of 2 the building? 3 A Yes, sir. 4 Q What was the temperature? 5 A I don't recall. 6 Q Hot? Cold? 7 MR. SCOFIELD: Object to the form. 8 A I don't remember it being either one. 9 Q Standing at the -- standing on the main 10 floor and looking up at the chair, can you see 11 the chair? 12 A I don't know, sir. 13 Q Did you ever look to see if you could 14 see the chair? 15 A I don't recall looking. 16 Q So let me get this straight. You took 17 picture photograph number 345 when you first 18 walked up. That's how the scene looked. And 19 you were up there about 30 minutes, and sometime 20 in that 30 minutes, some person who you don't 21 know -- it wasn't you or Applegate -- closed the 22 door panels and moved the chair and the spool 23 and then you took photo 346. Is that a good</p>	<p>1 to the manager's account. Is the I you? 2 MR. SCOFIELD: Object to the form. 3 A Yes. 4 Q And the we is who? 5 A HMMA. 6 Q That's not just the team -- the people 7 who were going to be in the team meeting. 8 That's the entire company? 9 A Well, I mean the collective we. 10 Q And you say weight. What do you mean 11 weight to the manager's account? Do you mean 12 that he would be more believable than Dees? 13 A I believe that we must give -- that we 14 needed to give that statement more weight. 15 Q And do you base that on anything other 16 than the fact that Brookshire was a manager? 17 A No, sir. 18 Q You also state underneath there, I have 19 a signed statement by the Stamping Manager that 20 he was 15 feet from Leon and observed him for 21 two minutes. There was a chair placed in 22 between the two open doors. The area is several 23 feet off the floor and isn't an area that a</p>
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<p>1 summation of what you've said? 2 MR. SCOFIELD: Object to the form. 3 A Yes, sir. 4 Q You say in your February 23, 2007 Team 5 Relations Memo to Greg Kimble that was given to 6 the termination meeting in your conclusion, I 7 believe we must give weight to the manager's 8 account and assume that the event took place at 9 one a.m. on Wednesday morning. Did you see 10 that? 11 MR. SCOFIELD: No, Vince. We're trying 12 to get to that document. 13 MR. KILBORN: It's in your Exhibit 1. 14 MR. SCOFIELD: There are only about 500 15 pages in here. So we're working our way there. 16 MR. SPORT: No. That one was out. 17 MR. KILBORN: There you go. 18 Q Have you got that memo that you wrote? 19 A Yes, sir. 20 Q You see your conclusion? 21 A I see the sentence that you read, yes, 22 sir. 23 Q You say, I believe we must give weight</p>	<p>1 maintenance man would enter to fix a carrier and 2 then leave. Now, is that your statement? 3 A That is information that was shared 4 with me by Mr. Applegate. 5 Q So you don't attribute the chair being 6 placed between the two open doors to anybody in 7 here, but it was Applegate that said that? 8 A That's who told me that, yes. 9 Q Then you say the area is several feet 10 off the floor. Well, it's about 75 feet off the 11 floor, isn't it? 12 A Yes, sir. 13 Q That's not several feet, is it? 14 A Approximately. I don't know the exact 15 height. 16 Q What do you mean by several feet? 17 A It's very far up there. 18 Q That means several? 19 MR. SCOFIELD: Object to the form. 20 A To me, sir. 21 Q And then you say there is not a need or 22 a practice where a person would need a chair. 23 You see that?</p>

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<p>1 A Yes, sir.</p> <p>2 Q Well, why is the chair in the picture</p> <p>3 on March the 5th if there's no need for a chair</p> <p>4 in that area?</p> <p>5 A I don't know, sir.</p> <p>6 Q Well, obviously, there was a need,</p> <p>7 wasn't there?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A I don't know, sir. I don't know what</p> <p>10 the need would have been. This information was</p> <p>11 shared by Mr. Applegate.</p> <p>12 Q Well, we now know that there was a</p> <p>13 chair there, and that contradicts your statement</p> <p>14 that there is not a need or practice where a</p> <p>15 person would need a chair, doesn't it?</p> <p>16 MR. SCOFIELD: Object to the form.</p> <p>17 A To perform work.</p> <p>18 Q Well, isn't it reasonable to conclude</p> <p>19 that since the chair was there two weeks later</p> <p>20 that there must have been some need?</p> <p>21 MR. SCOFIELD: Object to the form.</p> <p>22 A I wouldn't be able make that</p> <p>23 conclusion, sir. I don't know.</p>	<p>1 about it, do they?</p> <p>2 MR. SCOFIELD: Object to the form.</p> <p>3 A I don't know, sir.</p> <p>4 Q And, of course, you don't know where</p> <p>5 the chair has gone?</p> <p>6 A No, sir.</p> <p>7 Q Now, you include a statement in this</p> <p>8 same memorandum, in the fourth paragraph you</p> <p>9 say, Leon states Jim never got closer than 50</p> <p>10 feet from him. Leon became agitated and stated</p> <p>11 he didn't give a damn and was tired of this</p> <p>12 shit. Now, where did you get that from?</p> <p>13 A That's from the information in that</p> <p>14 e-mail.</p> <p>15 Q That's the e-mail that we looked at</p> <p>16 earlier dated February 21, 2007, which is also</p> <p>17 in this Exhibit 1?</p> <p>18 MR. KILBORN: Trent, that's Bates</p> <p>19 number 35.</p> <p>20 MR. SCOFIELD: Okay.</p> <p>21 Q Did that come from this e-mail?</p> <p>22 A Yes, sir.</p> <p>23 Q That's the e-mail you did not give to</p>
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<p>1 Q Well, who says there's not a need or</p> <p>2 practice where a person would need a chair,</p> <p>3 then?</p> <p>4 A Mr. Applegate.</p> <p>5 Q That's not your conclusion?</p> <p>6 A No, sir.</p> <p>7 Q Well, when Applegate and you went up</p> <p>8 there to take the picture on March the 5th, did</p> <p>9 Applegate say, well, gee, there must be a need</p> <p>10 for a chair because low and behold there one</p> <p>11 sits?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A I don't recall him saying that, sir.</p> <p>14 Q Well, did you get a statement from</p> <p>15 Applegate after he saw the chair there that said</p> <p>16 there, in fact, is a chair there?</p> <p>17 A No, sir.</p> <p>18 Q I get the impression that that plant is</p> <p>19 kept spotless. Would you agree with that?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A It's very clean.</p> <p>22 Q Chairs just don't accidentally remain</p> <p>23 in front of that panel without somebody knowing</p>	<p>1 the termination meeting?</p> <p>2 A Yes, sir.</p> <p>3 Q So you extracted information from this</p> <p>4 e-mail but you did not give them the e-mail?</p> <p>5 A No, sir.</p> <p>6 Q Why didn't you give them e-mail if you</p> <p>7 were using information you extracted from the</p> <p>8 e-mail --</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 Q -- to give them the complete truth as</p> <p>11 to what was in that e-mail?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A I put in there that particular</p> <p>14 statement because Mr. Dees was described as</p> <p>15 being agitated.</p> <p>16 MR. SPORT: For the Record, that</p> <p>17 document was described -- has already been</p> <p>18 marked as Defendant's Exhibit 6.</p> <p>19 Q Well, why didn't you put what we read</p> <p>20 before in that e-mail that Prater felt that even</p> <p>21 if Dees was not sleeping, he doesn't care enough</p> <p>22 about his job to prevent anyone from thinking he</p> <p>23 was sleeping?</p>

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1 A I felt that was opinion.

2 Q So you extracted what you thought was
3 fact and put it in your memo to the termination
4 meeting and then you left out what you thought
5 was opinion?

6 MR. SCOFIELD: Object to the form.

7 A I think in the e-mail when you read you
8 can draw the last statement by Mr. Prater was
9 his opinion.

10 Q Well, when did you become, you know,
11 qualified to extract opinion and fact?

12 MR. SCOFIELD: Object to the form.

13 A I took the information above because
14 that was stated as a direct statement. The
15 bottom is Mr. Prater talking to Mr. Applegate.

16 Q So you actually looked at the February
17 21, 2007 e-mail, Applegate to yourself,
18 Defendant's Exhibit 6, and you extracted some
19 parts of it and put it in your memo of two days
20 later, February 23, 2007, and left other things
21 out, didn't you?

22 A Only that statement, sir.

23 Q But that's true. You picked and

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1 choosed what you were going to take out of that
2 e-mail and give to the termination meeting,
3 didn't you?

4 A I took that information out and put it
5 in the summary.

6 Q All right. Well, you took a lot of
7 other information out, didn't you?

8 MR. SCOFIELD: Object to the form.

9 Q For instance, it says, per John and --
10 John per Leon and I and Willis conversation I
11 stated that it was reported by management he was
12 sleeping in the SOPS. He said, I know who it
13 is; it was Jim. I didn't confirm or deny. I
14 just said, I was just following up. Leon said
15 he was not sleeping there in the SOPS; he
16 watched Jim walk around the mezzanine area and
17 he was text messaging his daughter due to bad
18 weather. And none of that's in there, is it?

19 A I believe that information is contained
20 in the information Mr. Ware recorded.

21 Q Well, I see your lawyer pointed
22 something out. Did you notice that he pointed
23 out something out in this deposition?

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1 MR. SCOFIELD: Vince, I was showing him
2 where you were reading.

3 Q Did you notice that?

4 A No, sir. He pointed to this page.

5 Q Well, where is this -- where did you --
6 why did you leave out this statement, you guys
7 just do whatever you want; I'm fed up with this
8 shit; I explained that what you do if you were a
9 forward observer on lookout and guard duty and
10 you had some officer come by, would you have
11 done the same? His reply was, that's totally
12 different; you can't compare that with this.

13 And he goes on about his war stories. Then back
14 to the point. Why did you take that out?

15 MR. SCOFIELD: Object to the form.

16 A It wasn't relevant to the situation. I
17 didn't understand the reference.

18 Q Well, it was two days before the
19 meeting, wasn't it?

20 MR. SCOFIELD: Object to the form.

21 A (No response.)

22 Q And it was subject of Leon Dees, wasn't
23 it? Why wouldn't that be relevant?

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1 A The issue was him sleeping.

2 Q The issue -- well, the issue was
3 credibility, wasn't it?

4 MR. SCOFIELD: Object to the form.

5 A The issue was him sleeping in the
6 overhead.

7 Q But the issue was who was telling the
8 truth about that, wasn't it?

9 A A member of management witnessed him
10 sleeping in the overhead.

11 Q I understand that. But the issue was
12 who was telling the truth, wasn't it?

13 MR. SCOFIELD: Object to the form.

14 A The issue was management stated he was
15 sleeping in the overhead.

16 Q So the issue wasn't that Dees stated he
17 wasn't? That wasn't the issue?

18 MR. SCOFIELD: Object to the form.

19 A No, sir. The member of management's
20 statement saying he saw Leon sleeping in the
21 overhead.

22 Q Well, then, what does a blind and the
23 hiding got to do with that, then? If the

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<p>1 manager said it and it's true, why go any 2 further?</p> <p>3 A That was information that Mr. Applegate 4 had told me.</p> <p>5 Q Why did you put the chair was placed in 6 between the two open doors? If management said 7 it, why would you need to repeat that?</p> <p>8 A That was the information Mr. Applegate 9 had told me.</p> <p>10 Q I understand. But why is it relevant?</p> <p>11 A It's not my job to determine whether 12 it's relevant or not.</p> <p>13 Q Well, you did determine --</p> <p>14 A In that situation he's told it to me, 15 so I put it in there.</p> <p>16 Q Well, you determined that the 17 discussion about the Guard duty was irrelevant. 18 You did make that determination?</p> <p>19 A I didn't understand that reference.</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A Mr. Prater wasn't there up top in this 22 situation.</p> <p>23 Q Well, neither was Mr. Applegate?</p>	<p>1 Mr. Neal said, I'm going to instruct you not 2 answer.</p> <p>3 Q The company lawyer was a member of the 4 termination meeting, but you, Mr. Clevenger, 5 decided what was relevant. Is that what 6 happened?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A I just didn't include this information 9 from Mr. Prater except for that one statement.</p> <p>10 Q Because you thought it was not 11 relevant?</p> <p>12 A I didn't understand the reference.</p> <p>13 Q Well, if you didn't understand it, did 14 you go back and ask what the reference meant to 15 anybody?</p> <p>16 A No, sir.</p> <p>17 Q Why not?</p> <p>18 A Mr. Prater wasn't there that evening.</p> <p>19 Q Well, you had a telephone, didn't you?</p> <p>20 A I mean Mr. Prater wasn't there that 21 evening in the sense that he wasn't there when 22 Mr. Dees was sleeping in the overhead.</p> <p>23 Q Well, then, why did you include</p>
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<p>1 A Mr. Applegate is the senior manager of 2 the department. He would have been the one to 3 make the recommendation for termination.</p> <p>4 Q But you did make determinations as to 5 what from this e-mail to put in your memo and 6 what to leave out, didn't you?</p> <p>7 A Only with regard to this e-mail from -- 8 forwarded to me by Mr. Applegate.</p> <p>9 Q Well, why didn't you just give them the 10 whole e-mail and let them make their own 11 determination as to what was relevant? I mean, 12 you had the company lawyer sitting there. He 13 knows what's relevant, doesn't he?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 And, again, to the extent he's asking for --</p> <p>16 Q You're telling me that --</p> <p>17 MR. SCOFIELD: -- any --</p> <p>18 THE REPORTER: I'm sorry.</p> <p>19 MR. SCOFIELD: I know we can only talk 20 at once.</p> <p>21 THE REPORTER: Can you repeat it?</p> <p>22 MR. SCOFIELD: To the extent that 23 Mr. Kilborn is asking you about anything that</p>	<p>1 anything from this e-mail?</p> <p>2 A I only included that Mr. Dees was 3 agitated and he made that statement.</p> <p>4 Q I know. But that was what Prater said, 5 wasn't it?</p> <p>6 A The items below are Mr. Prater's 7 speculation.</p> <p>8 Q Oh, so tell me what speculation is.</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 A This is an e-mail that wasn't intended 11 to go to me. It went to Mr. Applegate. He 12 forwarded it to me. I pulled that one line out 13 regarding what Mr. Dees had said.</p> <p>14 Q What do you mean by speculation?</p> <p>15 A The last line that you repeated to me 16 earlier.</p> <p>17 Q I know. But what does that word mean 18 to you?</p> <p>19 A Mr. Prater was offering his opinion 20 there at the end.</p> <p>21 Q So who determined that Mr. Prater was 22 speculating?</p> <p>23 MR. SCOFIELD: Object to the form.</p>

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<p>1 A I determined that Mr. Prater was</p> <p>2 offering his opinion at the end, and it's</p> <p>3 Mr. Applegate who recommends termination, not</p> <p>4 Mr. Prater.</p> <p>5 Q Do you remember my question?</p> <p>6 A Please repeat it.</p> <p>7 Q You determined it was speculation,</p> <p>8 didn't you?</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 A I believed Mr. Prater was speculating</p> <p>11 at the end as to his opinion.</p> <p>12 Q Did you believe that -- well, do you</p> <p>13 believe this conversation took place between</p> <p>14 Prater and Dees about this forward observer</p> <p>15 reference?</p> <p>16 A I don't know, sir.</p> <p>17 Q Who on that committee do you think</p> <p>18 could not have determined for themselves how</p> <p>19 much of the e-mail of February 21, 2007 to</p> <p>20 consider and how much to not consider?</p> <p>21 MR. SCOFIELD: Object to the form.</p> <p>22 A Ask that again, please.</p> <p>23 Q Yeah. Isn't it true that everybody on</p>	<p>1 Q But it wasn't in the normal proceeding,</p> <p>2 was it?</p> <p>3 A This e-mail, no, sir.</p> <p>4 Q In your February 23, 2007 Team</p> <p>5 Relations Memo to Mr. Kimble you state --</p> <p>6 regarding the chirping sound of the radio you</p> <p>7 say, at this sound, Leon lifted his head, then</p> <p>8 got up and picked up a tool used to clear</p> <p>9 carriers when they become inoperable. Is that</p> <p>10 what Brookshire told you?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 THE WITNESS: It is okay if I --</p> <p>13 MR. SCOFIELD: Sure.</p> <p>14 A That's contained in Mr. Brookshire's</p> <p>15 written information.</p> <p>16 Q That's not Mr. Applegate?</p> <p>17 A No, sir. That was from</p> <p>18 Mr. Brookshire's information.</p> <p>19 Q Let me show you...</p> <p>20 MR. SCOFIELD: While y'all are looking,</p> <p>21 I'm going to run to the restroom.</p> <p>22</p> <p>23 (Whereupon, a brief recess was had in</p>
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<p>1 that committee could have made their own</p> <p>2 judgment about what to consider and not to</p> <p>3 consider --</p> <p>4 MR. SCOFIELD: Object to the form.</p> <p>5 Q -- out of this e-mail without you</p> <p>6 selectively choosing what you wanted them to</p> <p>7 see?</p> <p>8 MR. SCOFIELD: Same objection.</p> <p>9 A I think there's two questions there.</p> <p>10 Yes, they could have looked at this. I don't</p> <p>11 know what they would have determined.</p> <p>12 Q What would have been the harm of giving</p> <p>13 it to them?</p> <p>14 A This was an e-mail communication to</p> <p>15 Mr. Applegate. It wasn't in conjunction with</p> <p>16 the normal proceeding. Mr. Ware's memo was in</p> <p>17 conjunction with the information I was</p> <p>18 collecting.</p> <p>19 Q So you didn't give them the e-mail</p> <p>20 because it wasn't in the normal proceeding?</p> <p>21 A And the only reason I put the statement</p> <p>22 in there was because it was attributed to</p> <p>23 Mr. Dees.</p>	<p>1 the proceeding.)</p> <p>2</p> <p>3 MR. KILBORN: Trent, we have requested</p> <p>4 that e-mail regarding that policy that</p> <p>5 Brookshire referred to and Wendy referred to.</p> <p>6 Is there such a thing?</p> <p>7 MR. SCOFIELD: Not that -- I mean,</p> <p>8 we're looking. I think Mr. Clevenger testified</p> <p>9 under oath that he doesn't have it. I'm not --</p> <p>10 I'll tell you, Vince, we're looking for it but</p> <p>11 have not found any e-mail that Brookshire</p> <p>12 referenced.</p> <p>13 MR. KILBORN: Wendy referred to</p> <p>14 something. She used the word confusion, I</p> <p>15 think. Some document come out, the</p> <p>16 clarification. You just can't find it?</p> <p>17 MR. SCOFIELD: Again, not to my</p> <p>18 knowledge.</p> <p>19</p> <p>20 (Whereupon, Plaintiff's Exhibit</p> <p>21 Number 26 was marked for identification</p> <p>22 and copy of same is attached hereto.)</p> <p>23</p>

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<p>1 Q Take a look at what's been marked</p> <p>2 Plaintiff's Exhibit 26. Have you ever seen this</p> <p>3 e-mail before?</p> <p>4 A (Witness reviews document.) Yes.</p> <p>5 Q Did you get a copy of the February 7,</p> <p>6 2007 e-mail sent from William Ware to yourself?</p> <p>7 A Ask me that one more time, please.</p> <p>8 Q Did you get a copy of this e-mail dated</p> <p>9 February 7, 2007 from William Ware to yourself?</p> <p>10 A I don't understand. You said did I get</p> <p>11 a copy?</p> <p>12 Q Yeah. Did you get that e-mail?</p> <p>13 A Yes, I received the e-mail.</p> <p>14 Q Did you read it?</p> <p>15 A Yes, sir.</p> <p>16 Q Was that included in the packet given</p> <p>17 to the termination meeting?</p> <p>18 A No, sir. This was a different</p> <p>19 situation.</p> <p>20 Q How many days before this termination</p> <p>21 meeting was this e-mail sent to you?</p> <p>22 A Is it okay if I --</p> <p>23 MR. SCOFIELD: Sure.</p>	<p>1 incident.</p> <p>2 Q How did you know that?</p> <p>3 A When I put the packet together, they</p> <p>4 would be discussing the sleeping incident.</p> <p>5 That's what the Term Discussion was in regards</p> <p>6 to.</p> <p>7 Q Isn't it reasonable for -- when</p> <p>8 discussing a termination to consider the</p> <p>9 employee's history with the company at all?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A They were there to make a determination</p> <p>12 on this incident.</p> <p>13 Q I know. But isn't it reasonable to</p> <p>14 consider the employee's history with the</p> <p>15 company?</p> <p>16 A In this situation, this was an</p> <p>17 unrelated incident. This was something that had</p> <p>18 happened prior.</p> <p>19 Q I know. You've repeated that. But</p> <p>20 isn't it reasonable to consider the employee's</p> <p>21 history with the company?</p> <p>22 A I would say it depends on the</p> <p>23 situation. This situation was regarding his</p>
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<p>1 Q Sure.</p> <p>2 A The meeting notice was set for February</p> <p>3 26th and this e-mail was sent by William Ware on</p> <p>4 February 7th.</p> <p>5 Q 19 days?</p> <p>6 A Yes, sir.</p> <p>7 Q So you had actual knowledge of the</p> <p>8 information in this e-mail but you did not share</p> <p>9 this with the termination meeting?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A This was an unrelated incident.</p> <p>12 Q That's not my question. You did not</p> <p>13 share this with the termination meeting?</p> <p>14 A No, sir.</p> <p>15 Q And you made a deliberate decision not</p> <p>16 to do that?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A I made the decision this wasn't part of</p> <p>19 the discussion that the term committee would be</p> <p>20 discussing.</p> <p>21 Q How did you know what they would be</p> <p>22 discussing?</p> <p>23 A They would be discussing the sleeping</p>	<p>1 sleeping, not his -- a performance issue earlier</p> <p>2 in the month.</p> <p>3 Q You obviously decided this didn't have</p> <p>4 anything to do with his termination at all?</p> <p>5 A It didn't have anything to do with his</p> <p>6 sleeping, yes.</p> <p>7 Q Well, let's see. It had something to</p> <p>8 do with Mr. Applegate's opinion, didn't it?</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 A I see instruction from Mr. Applegate.</p> <p>11 Q And it certainly had something to do</p> <p>12 with Mr. Prater's opinion about Mr. Dees, didn't</p> <p>13 it?</p> <p>14 A Ask me that question again, please.</p> <p>15 Q It had something to do with</p> <p>16 Mr. Applegate and Mr. Prater's opinion of</p> <p>17 Mr. Dees, didn't it?</p> <p>18 MR. SCOFIELD: Object to the form.</p> <p>19 A No. I would say it had to do with</p> <p>20 their -- their assessment of the situation that</p> <p>21 this is relating to.</p> <p>22 Q Well, it certainly had something to do</p> <p>23 with Mr. William Ware's opinion of Mr. Dees,</p>

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<p>1 didn't it?</p> <p>2 MR. SCOFIELD: Object to the form.</p> <p>3 Q The investigator who took Brookshire's</p> <p>4 statement?</p> <p>5 MR. SCOFIELD: Same objection.</p> <p>6 A I don't see his opinion reflected in</p> <p>7 there of Mr. Dees.</p> <p>8 Q Well, you see where it says the TM and</p> <p>9 Leon are not on speaking terms. Who is the TM?</p> <p>10 A Team Member.</p> <p>11 MR. SCOFIELD: I think it's TL.</p> <p>12 Q TL. Who is the TL? Prater?</p> <p>13 A No. Team Leader.</p> <p>14 Q Who is that?</p> <p>15 A I believe that would be Kevin Hughes.</p> <p>16 Q So this is talking about Kevin Hughes</p> <p>17 and Mr. Dees are not on speaking terms?</p> <p>18 A That's what Mr. Ware is saying, yes.</p> <p>19 Q And he's saying it appears that he --</p> <p>20 meaning Hughes -- blew the incident out of</p> <p>21 proportion and he only singled out Leon but for</p> <p>22 no apparent reason. That's referring to Kevin</p> <p>23 Hughes?</p>	<p>1 obligation?</p> <p>2 A Yes, sir.</p> <p>3 Q And explain to me why USERRA is not</p> <p>4 mentioned in any of the company policy on</p> <p>5 military duty.</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 A It's a federal act. It's not an HMMA</p> <p>8 policy.</p> <p>9 Q Why isn't a federal act part of HMMA</p> <p>10 policy?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A We comply with that as it's written,</p> <p>13 sir.</p> <p>14 Q As what's written?</p> <p>15 A As the USERRA guidelines. We comply</p> <p>16 with those. It's not our policy. We follow</p> <p>17 what the USERRA guidelines are.</p> <p>18 Q But my question is, why doesn't the</p> <p>19 Hyundai policy mention that law?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A I don't know, sir.</p> <p>22 Q Did you write it?</p> <p>23 A No, sir.</p>
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<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A I believe so, sir.</p> <p>3 Q And this says to you in the beginning</p> <p>4 of the e-mail, Rob, Greg P. and I met with all</p> <p>5 the TMs in question about Leon leaving for lunch</p> <p>6 while the lift was down. Now, why are they</p> <p>7 telling you that?</p> <p>8 A He's explaining that the Department is</p> <p>9 going to proceed with a Discussion Planner based</p> <p>10 on that information.</p> <p>11 Q Why would Leon Dees be singled out for</p> <p>12 no apparent reason?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A I don't know.</p> <p>15 Q Was there a Discussion Planner had as a</p> <p>16 result of this?</p> <p>17 A I'd have to review the documents, sir.</p> <p>18 Q You don't remember?</p> <p>19 A Not right off hand, no.</p> <p>20 Q Are you familiar with the laws that</p> <p>21 protect military personnel from being</p> <p>22 disciplined or having any employment action</p> <p>23 taken against them because of their military</p>	<p>1 Q Let's see. Take a look at Plaintiff's</p> <p>2 Exhibit 9. I just want to refer to Bates number</p> <p>3 26. This is an application of Mr. Dees. Take a</p> <p>4 look at that.</p> <p>5 A (Witness reviews document.)</p> <p>6 Q Have you ever seen one of those before?</p> <p>7 A I've seen an application before, yes.</p> <p>8 Q Did you sign one like that?</p> <p>9 A I'm sure I did.</p> <p>10 Q Look at the statement at the asterisk</p> <p>11 on the bottom of that. It says, HMMA fully</p> <p>12 complies with the spirit and intent of laws</p> <p>13 regarding nondiscrimination for employment</p> <p>14 because of sex, race, creed, color, national</p> <p>15 origin, age, disability, or Vietnam veteran</p> <p>16 status. You see that?</p> <p>17 A Yes, sir.</p> <p>18 Q Where is USERRA mentioned?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A I don't see it mentioned specifically</p> <p>21 there, sir.</p> <p>22 Q I thought you said Hyundai complied</p> <p>23 with all the laws?</p>

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<p>1 A We are required to, yes.</p> <p>2 Q Why don't they mention it?</p> <p>3 MR. SCOFIELD: Object to the form.</p> <p>4 A I don't know, sir.</p> <p>5 Q Do you know what this Vietnam veteran</p> <p>6 status is?</p> <p>7 A Not specifically, no.</p> <p>8 Q Well, since you are an expert, how</p> <p>9 would Dees know if you don't know?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A I don't understand your question, sir.</p> <p>12 Q Well, explain to me -- is this Hyundai</p> <p>13 policy that's stated here?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 A This is the employment application,</p> <p>16 sir.</p> <p>17 Q Is that Hyundai policy?</p> <p>18 A It's a Hyundai form.</p> <p>19 Q I know. But is it Hyundai policy?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 A I would say it's a Hyundai form. I</p> <p>22 didn't author it.</p> <p>23 Q You can't tell me if it's policy or</p>	<p>1 A It doesn't.</p> <p>2 Q I thought you said the policy was that</p> <p>3 it's better to obtain orders but it's not</p> <p>4 required?</p> <p>5 A I believe what I said is that's what</p> <p>6 the USERRA guideline is.</p> <p>7 Q But why isn't that in the official</p> <p>8 Military Leave Policy?</p> <p>9 A I don't know, sir.</p> <p>10 Q Well, where is the military guidelines</p> <p>11 stated?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 Q You said it was in the military</p> <p>14 guideline. Where is that?</p> <p>15 A The USERRA Act.</p> <p>16 Q So you've seen the USERRA Act and you</p> <p>17 know that?</p> <p>18 MR. SCOFIELD: Object to the form.</p> <p>19 A I've read that clause in there, yes.</p> <p>20 Q And that's what that says?</p> <p>21 A Paraphrased, yes.</p> <p>22 Q Explain to me why that isn't in the</p> <p>23 Hyundai Military Leave Policy.</p>
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<p>1 not?</p> <p>2 A I could tell that you it's a Hyundai</p> <p>3 form.</p> <p>4 Q Are you familiar with the Hyundai</p> <p>5 policy on military duty?</p> <p>6 A Yes, sir.</p> <p>7 Q Okay. Tell me what it says.</p> <p>8 A I can paraphrase.</p> <p>9 Q Sure.</p> <p>10 A It states that HMMA will allow a Team</p> <p>11 Member difference in pay for a period up to 30</p> <p>12 days for military service.</p> <p>13 Q Is that it?</p> <p>14 A That policy -- that policy deals</p> <p>15 specifically with making up the difference in</p> <p>16 pay for military service while employed.</p> <p>17 Q Take a look at that document in front</p> <p>18 of you and turn to Bates number 87. It says</p> <p>19 Military Leave Policy. Is that the Military</p> <p>20 Leave Policy?</p> <p>21 A Yes, sir.</p> <p>22 Q Where does it talk about whether or not</p> <p>23 orders are required?</p>	<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A I don't know, sir. I didn't write this</p> <p>3 policy.</p> <p>4 Q You do write policies, though, don't</p> <p>5 you?</p> <p>6 A It can be part of my function, yes.</p> <p>7 Q Okay. Who wrote this policy?</p> <p>8 A Mr. Swegman.</p> <p>9 Q Have you discussed this with him?</p> <p>10 MR. SCOFIELD: Object to the form.</p> <p>11 A This policy or that question</p> <p>12 specifically?</p> <p>13 Q Have you discussed this policy with</p> <p>14 him?</p> <p>15 A I would say I've probably talked about</p> <p>16 this policy with Mr. Swegman before, yes.</p> <p>17 Q Have you discussed with him improving</p> <p>18 or amending this policy to address military</p> <p>19 orders and whether or not they're required?</p> <p>20 A No, sir.</p> <p>21 Q Have you discussed with him or anybody</p> <p>22 else amending this policy to make it clear that</p> <p>23 military orders are not required for weekend</p>

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<p>1 leave?</p> <p>2 A No, sir.</p> <p>3 Q This policy was not given to the</p> <p>4 termination meeting?</p> <p>5 A No, sir.</p> <p>6 Q Do you know Mr. Prater personally?</p> <p>7 A Yes. I know who he is, yes.</p> <p>8 Q Does he still work for the company?</p> <p>9 A No, sir.</p> <p>10 Q What happened to him?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A It's my understanding he obtained</p> <p>13 employment at a company north -- in Tennessee, I</p> <p>14 believe.</p> <p>15 Q You don't have any knowledge of that,</p> <p>16 do you, him leaving? Personal knowledge of him</p> <p>17 leaving?</p> <p>18 A I know he went to another company.</p> <p>19 Q Do you know why?</p> <p>20 A I don't, sir.</p> <p>21 Q Does Hyundai evaluate employees?</p> <p>22 A There's information on salaried Team</p> <p>23 Members.</p>	<p>1 A I don't remember a name specifically.</p> <p>2 Q What would be the occasion?</p> <p>3 A I believe they were attached to a Leave</p> <p>4 of Absence form requesting military leave.</p> <p>5 Q Have you ever been involved in any way,</p> <p>6 shape, or form in any type of claim against</p> <p>7 Hyundai involving violation of any federal law?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A Not that I'm aware.</p> <p>10 Q Did you sign a Code of Ethics when you</p> <p>11 went to work for Hyundai?</p> <p>12 A I'd have to review the documents that I</p> <p>13 signed when I was employed, sir.</p> <p>14 Q Have you ever signed a Code of Ethics?</p> <p>15 MR. SCOFIELD: Object to the form.</p> <p>16 A I don't recall.</p> <p>17 Q Does Hyundai have a Code of Ethics?</p> <p>18 A I don't recall if there's such a</p> <p>19 document, sir.</p> <p>20 Q Do you know a Mr. Mun, M-U-N?</p> <p>21 A I don't know him. I know of him. I</p> <p>22 know who he is.</p> <p>23 Q Did you ever talk to Mr. Mun about</p>
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<p>1 Q Have you ever seen a Hyundai evaluation</p> <p>2 of Mr. Dees' employment?</p> <p>3 A No, sir.</p> <p>4 Q And, to your knowledge, did anybody at</p> <p>5 Hyundai evaluate Mr. Dees' employment prior to</p> <p>6 his termination?</p> <p>7 A He would have gone through the 90-day</p> <p>8 probationary period.</p> <p>9 Q That's not my question. Did anybody</p> <p>10 evaluate his employment?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A I would have to assume -- I would have</p> <p>13 to assume he was evaluated in that 90-day</p> <p>14 period, sir.</p> <p>15 Q How about after that?</p> <p>16 A Not that I'm aware.</p> <p>17 Q Have you ever seen military orders for</p> <p>18 drill duty on the weekend?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A I believe I have.</p> <p>21 Q Have you ever seen orders on Mr. Dees?</p> <p>22 A No, sir.</p> <p>23 Q Who have you seen orders on?</p>	<p>1 Mr. Dees?</p> <p>2 A No, sir.</p> <p>3 Q Do you have any knowledge of Mr. Mun</p> <p>4 making his own inquiry about Mr. Dees'</p> <p>5 termination?</p> <p>6 A Not specifically, no.</p> <p>7 Q How about generally?</p> <p>8 A I believe I heard Mr. Applegate say</p> <p>9 that Mr. Mun had some questions.</p> <p>10 Q When did Mr. Applegate tell you that?</p> <p>11 A I don't remember.</p> <p>12 Q Before or after the termination?</p> <p>13 A I don't remember.</p> <p>14 Q Have you got any idea why Mr. Mun would</p> <p>15 be making some inquiry?</p> <p>16 A I don't, sir.</p> <p>17 Q Do you have a name for the Koreans who</p> <p>18 work at the plant?</p> <p>19 MR. SCOFIELD: Object to the form.</p> <p>20 A I normally refer as my Korean</p> <p>21 counterparts.</p> <p>22 Q And I think you told me you don't have</p> <p>23 one?</p>

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<p>1 A I don't, sir.</p> <p>2 Q Does Mr. Swegman have a Korean counterpart?</p> <p>3 A Yes, sir.</p> <p>4 Q Who is that?</p> <p>5 A S.D. Park.</p> <p>6 Q What's the S.D. stand for?</p> <p>7 A Soon-du. I believe S-O-O-N dash D-U. I believe that's correct.</p> <p>8 Q And do you know what his job title is?</p> <p>9 A He is the Coordinator for Team Relations.</p> <p>10 Q Do you know what that means, coordinator?</p> <p>11 A Generally, he would be Mr. Swegman's counterpart.</p> <p>12 Q Is it fair to say that Hyundai does not permit any type of job action against an employee because of his National Guard obligation?</p> <p>13 A Yes.</p> <p>14 Q All right. If an employer takes action against an employee because of his military</p>	<p>1 A I don't, sir.</p> <p>2 Q Do you know of anybody who interviewed Shane Archer about the sleeping incident?</p> <p>3 A I don't, sir.</p> <p>4 Q You didn't interview him?</p> <p>5 A No, sir.</p> <p>6 Q Do you know who HMA is?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A HMA?</p> <p>9 Q Right.</p> <p>10 A Yes, sir.</p> <p>11 Q Who is that?</p> <p>12 A Hyundai Motor America.</p> <p>13 Q Do you know who HMC is?</p> <p>14 A Yes, sir.</p> <p>15 Q Does HMA do business on the same property that HMMA does business here in Montgomery?</p> <p>16 MR. SCOFIELD: Object to the form.</p> <p>17 A I don't know, sir.</p> <p>18 Q Do you know what HMA does?</p> <p>19 A Yes, sir.</p> <p>20 Q What do they do?</p>
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<p>1 obligation, whether it's National Guard or active military or whatever, how would you characterize that?</p> <p>2 MR. SCOFIELD: Object to the form.</p> <p>3 A I don't know if I understand what you --</p> <p>4 Q Yeah. Let's -- if an employer were to take some type of job action against someone because of his military obligation, would you consider that a serious offense?</p> <p>5 MR. SCOFIELD: Object to the form.</p> <p>6 A I guess I would say that wouldn't be permitted.</p> <p>7 Q Right. Would you agree that it would violate federal law?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A To my understanding, I would agree, yes, sir.</p> <p>10 Q All right. And would you consider violation of federal law a serious matter?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A Yes, sir.</p> <p>13 Q Do you know anybody named Shane Archer?</p>	<p>1 A It's my understanding that's our sales arm.</p> <p>2 Q And who is our?</p> <p>3 A HMC.</p> <p>4 Q HMC. And who is HMC?</p> <p>5 A Hyundai Motor Company.</p> <p>6 Q And who are they?</p> <p>7 A That would be the company based in Korea.</p> <p>8 Q All right. What's their relationship, if you know, to HMA or HMMA?</p> <p>9 MR. SCOFIELD: Object to the form.</p> <p>10 A It's my understanding we're two separate companies under HMC.</p> <p>11 Q All right. I noticed when I was at the plant the other day there was a picture of Chairman Chung right there in the lobby. What's that all about? Who is he?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A He is the head of HMC.</p> <p>14 Q Okay. Do you know what his picture is doing in the HMMA lobby?</p> <p>15 A Because we are a company under HMC, and</p>

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<p>1 he is the leader of the HMC company. 2 Q Do you know if he's ever been in 3 Montgomery? 4 A Yes, sir. 5 Q Have you seen him? 6 A I believe I saw him at the grand 7 opening. 8 Q Of the plant? 9 A Yes, sir. 10 Q Do you know his relationship to HMC? 11 A He is the head of that company. 12 Q Other than your attorney here -- your 13 two attorneys here, have you discussed your 14 deposition with anybody else? 15 A No, sir. 16 Q Have you discussed this case with 17 anybody else? 18 A No, sir. 19 Q You haven't discussed it with 20 Applegate, Prater, Hughes, Kimble, Warner, or 21 Ware? 22 MR. SCOFIELD: Object to the form. 23 A No, sir.</p>	<p>1 Q What kind of violence? 2 A Workplace violence. 3 Q Workplace violence? 4 A Yes, sir. 5 Q Do you know who the CFO of HMMA is? 6 A The CFO of HMMA? 7 Q Right. 8 A Jason Lee. 9 Q Okay. Do you know who H.I. Kim is? 10 A Yes, sir. 11 Q Who is he? 12 A I believe his title is COO. 13 Q All right. Do you know who Mr. Ahn is? 14 A Yes, sir. 15 Q Who is he? 16 A He is the president. 17 Q Of what company? 18 A HMMA. 19 Q Have you ever been to Seoul, South 20 Korea for cultural training? 21 A I've been to Seoul, South Korea, but it 22 was not the cultural training, no, sir. 23 Q What was it for?</p>
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<p>1 Q Neal? 2 MR. SCOFIELD: Same objection. 3 A No, sir. 4 Q Does Mr. Neal sit in on all termination 5 meetings? 6 A Yes, he is in the room. 7 Q Okay. Does he participate? 8 MR. SCOFIELD: I'm going to instruct 9 you not to answer. 10 Q Does he sit in on all disciplinary 11 meetings? 12 A No. 13 Q Just termination meetings? 14 MR. SCOFIELD: If you know. 15 A There could be other things that I'm 16 not aware of. 17 Q Well, to your personal knowledge, does 18 he sit in on any meeting besides termination 19 meetings? 20 A Yes. 21 MR. SCOFIELD: Object to the form. 22 Q What type? 23 A I believe also workplace violence.</p>	<p>1 A In 2004, Team Members were sent to do 2 line training, and I was on one of those trips. 3 Q And what is line training? 4 A Where they went to the factory and they 5 actually learned jobs on the line. 6 Q Okay. Did you participate in the 7 termination of Mr. Dees? 8 MR. SCOFIELD: Object to the form. 9 A I don't understand. 10 Q Well, he was terminated on a room in a 11 security building. Were you there? 12 A No, sir. 13 Q All right. Do you know anything about 14 that? 15 MR. SCOFIELD: Object to the form. 16 A At that point of the process, I'm no 17 longer involved. 18 Q So you don't know who was there? 19 A Only generally. 20 Q Okay. Who did you find that out from? 21 MR. SCOFIELD: Object to the form. 22 A I would only know that a Team Rep was 23 present at the request of the Employment</p>

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<p>1 Department.</p> <p>2 Q The Team Rep purpose would be what?</p> <p>3 A They sit on the same side of the table</p> <p>4 with the Team Member so that they're not sitting</p> <p>5 by themselves and to answer any questions that</p> <p>6 may come up that the Team Member may have.</p> <p>7 Q Represent the Team Member?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A No, sir, not in that format.</p> <p>10 Q Advocate for the Team Member?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A Not in that format, sir.</p> <p>13 Q Have you ever been a Team Rep?</p> <p>14 A Yes, sir.</p> <p>15 Q What were your duties?</p> <p>16 A You were out on the floor to answer</p> <p>17 questions regarding policy, procedure,</p> <p>18 facilitate communications between the Team</p> <p>19 Member and their direct supervisors.</p> <p>20 Q What is the purpose of the Team Rep</p> <p>21 sitting on the same side of the table as the</p> <p>22 employee?</p> <p>23 A In case they would have any questions</p>	<p>1 MR. SCOFIELD: Object to the form.</p> <p>2 A Unless they have a question.</p> <p>3 Q And then he's read his termination</p> <p>4 letter?</p> <p>5 A Yes, sir.</p> <p>6 Q And are you instructed what to do and</p> <p>7 not what to do?</p> <p>8 A No, sir.</p> <p>9 Q Well, are you instructed why you're</p> <p>10 there?</p> <p>11 A To provide any information that the</p> <p>12 Team Member might ask.</p> <p>13 Q Have you ever had a Team Member ask</p> <p>14 anything or provide any comfort?</p> <p>15 MR. SCOFIELD: Object to the form.</p> <p>16 A I don't recall specifically.</p> <p>17 Q Have you witnessed an employee being</p> <p>18 terminated before?</p> <p>19 A Yes, sir.</p> <p>20 Q In the security building, in the</p> <p>21 termination room?</p> <p>22 MR. SCOFIELD: At HMMA?</p> <p>23 Q At HMMA.</p>
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<p>1 and also to -- so that they're not sitting on</p> <p>2 that side by themselves.</p> <p>3 Q What's the matter with sitting by</p> <p>4 themselves?</p> <p>5 A Simply to provide some comfort.</p> <p>6 Q All right. Why do you want to provide</p> <p>7 comfort?</p> <p>8 A To make the situation easier for the</p> <p>9 Team Member to go through.</p> <p>10 Q Is the Team Rep there to speak on</p> <p>11 behalf of the employee?</p> <p>12 A No, sir.</p> <p>13 Q Give him advice?</p> <p>14 A No, sir.</p> <p>15 Q So how do you give comfort to an</p> <p>16 employee, since you did it?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A Simply by sitting on that side of the</p> <p>19 table.</p> <p>20 Q Well, what do you say them to?</p> <p>21 A There's really no speaking role, sir.</p> <p>22 Q So what happens is you just sit there</p> <p>23 silent by the employee?</p>	<p>1 A I don't recall if I've been in the room</p> <p>2 or not.</p> <p>3 Q You would agree with me that it's a</p> <p>4 very stressful situation, isn't it?</p> <p>5 A Yes, sir.</p> <p>6 Q It's very stressful emotionally, isn't</p> <p>7 it?</p> <p>8 MR. SCOFIELD: Object to the form.</p> <p>9 A I would imagine so.</p> <p>10 Q It's stressful financially, isn't it?</p> <p>11 MR. SCOFIELD: Object to the form.</p> <p>12 A I suppose it could be.</p> <p>13 Q And you wouldn't know because you've</p> <p>14 never gotten fired; that's correct, isn't it?</p> <p>15 A Yes, sir.</p> <p>16 Q It also leaves -- termination leaves a</p> <p>17 black mark on somebody's record, doesn't it?</p> <p>18 MR. SCOFIELD: Object to the form.</p> <p>19 A I don't -- I wouldn't know, sir.</p> <p>20 Q What's your opinion?</p> <p>21 A My opinion is that's not information</p> <p>22 that's shared between employers.</p> <p>23 Q Well, whether it's shared or not, would</p>

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<p>1 you agree that most employers ask on 2 questionnaires -- on applications have you ever 3 been terminated, don't they? 4 MR. SCOFIELD: Object to the form. 5 A I don't know. 6 Q You don't know. Well, Hyundai asks 7 that, don't they? 8 MR. SCOFIELD: Object. 9 A I've have to review the documents, sir. 10 Q Well, assuming that an employee tells 11 on an application he's been terminated, wouldn't 12 you agree that would be a black mark on his 13 record? 14 A That's not part of the process -- a 15 process that I'm involved in, sir, so I don't 16 know. 17 Q So you don't have any idea whether 18 termination would be a black mark? 19 A I don't know, sir. 20 Q Does your wife work? 21 A Yes, sir. 22 Q Where does she work? 23 A Acutech.</p>	<p>1 matter? 2 MR. SCOFIELD: Object to the form. 3 A I think it could be. 4 Q And it could be in what circumstances? 5 A I don't know, sir. 6 Q The time where you served as a Team Rep 7 was Wendy Warner there? 8 A No, sir. It was at a different -- it 9 was at SIA. 10 Q Different employer? 11 A Yes, sir. 12 MR. KILBORN: Let's take five minutes 13 and let me talk to Jeff. 14 MR. SCOFIELD: Okay. 15 16 (Whereupon, a brief recess was had in 17 the proceeding.) 18 19 BY MR. KILBORN: 20 Q I want to put together by Bates number 21 what was in the packet. And looking at 22 Plaintiff's Exhibit 9, these do have Bates 23 numbers on them. And if we can just look at</p>
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<p>1 Q Acutech. What do they do? 2 A It's a copier sales and service. 3 Q Has she ever been terminated? 4 MR. SCOFIELD: Object to the form. 5 A Not that I'm aware. 6 Q Anybody in your family ever been 7 terminated? 8 MR. SCOFIELD: Object to the form. 9 A I believe one of my daughters when she 10 was younger in high school. 11 Q From a job? 12 A Yes, sir. 13 Q Did that affect her emotionally? 14 MR. SCOFIELD: Object to the form. 15 A I would say in her situation, no. 16 Q So your life experience does not 17 include the devastating effect of termination on 18 somebody's record, does it? 19 MR. SCOFIELD: Object to the form. 20 A No, sir. 21 Q Do you consider it a serious matter? 22 A Yes, sir. 23 Q Do you consider it a life-altering</p>	<p>1 these Bates numbers and confirm for me that what 2 was in the packet was Bates number 33, 34, 35 3 and the sketch was not -- excuse me -- 36, but 4 the sketch on the reverse side was not in there; 5 correct? 6 A Correct. 7 Q And then Bates number 37, 38. Have I 8 correctly identified the Bates numbers of what 9 was in the packet? 10 A Yes, sir. 11 Q And I've correctly stated that the 12 sketch was not on the back of Bates number 36? 13 A Yes, sir. 14 Q And these -- you mentioned this 15 Industrial Care Management? 16 A Yes, sir. 17 Q Is that some company owned by Hyundai 18 or controlled by Hyundai or some division or 19 department of HMMA? 20 MR. SCOFIELD: Object to the form. 21 A No, sir. 22 Q What is it? 23 A It's my understanding -- it's my</p>

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<p>1 understanding it's an outside medical company.</p> <p>2 Q Does it have offices on the Hyundai</p> <p>3 property?</p> <p>4 A They occupy our medical clinic, sir.</p> <p>5 Q So you've got a building called a</p> <p>6 medical clinic. Do they have a lease on it?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A Yes, we have an area called the medical</p> <p>9 clinic. It's within the Admin Building. I</p> <p>10 don't know any -- I don't know any information</p> <p>11 regarding lease or anything like that.</p> <p>12 Q But your understanding is that's a</p> <p>13 separate company from HMMA?</p> <p>14 A Yes, sir.</p> <p>15 Q Is Debra -- the lady named Debra, does</p> <p>16 she run it?</p> <p>17 A It's my understanding she's the clinic</p> <p>18 manager, yes.</p> <p>19 Q And do you have access so that if you</p> <p>20 needed something from Industrial Care Management</p> <p>21 you can go ask for it and it would be given to</p> <p>22 you --</p> <p>23 MR. SCOFIELD: Object to the form.</p>	<p>1 that information.</p> <p>2 Q I know. But how does -- obviously</p> <p>3 there was a release signed by Brookshire so that</p> <p>4 HMMA could get it. Who has access to this</p> <p>5 information --</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 Q -- that's the subject of this release?</p> <p>8 A I don't know the answer to that</p> <p>9 question, sir.</p> <p>10 Q What is the purpose of getting</p> <p>11 Brookshire to give a release?</p> <p>12 MR. SCOFIELD: Object to the form.</p> <p>13 A It's my understanding that if he did</p> <p>14 not comply with whatever treatment was suggested</p> <p>15 or required that his medical provider would</p> <p>16 contact ICM.</p> <p>17 Q That his who would contact ICM?</p> <p>18 A Whoever the medical provider was for</p> <p>19 the treatment.</p> <p>20 Q Why does Hyundai get Brookshire to sign</p> <p>21 a release releasing information to Hyundai?</p> <p>22 MR. SCOFIELD: Object to the form.</p> <p>23 A It's my understanding that that release</p>
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<p>1 Q -- if it was pertinent to your job?</p> <p>2 A I wouldn't be -- I would not be allowed</p> <p>3 access to medical records, no, sir.</p> <p>4 Q You saw the drug test?</p> <p>5 A No, sir. I was communicated the</p> <p>6 results.</p> <p>7 Q The results. You didn't see it but you</p> <p>8 were told what was in there?</p> <p>9 A Yes.</p> <p>10 Q And you were told -- what else were you</p> <p>11 told about what was in Brookshire's file over</p> <p>12 there?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A The only thing that's communicated is</p> <p>15 that there was a confirmed positive and what the</p> <p>16 substance -- or I believe now it's classed as</p> <p>17 family of substance that was found.</p> <p>18 Q And that family was what?</p> <p>19 A Cocaine.</p> <p>20 Q And who at HMMA has -- keeps track of</p> <p>21 the treatment that Industrial Care Management</p> <p>22 gives to Brookshire?</p> <p>23 A Industrial Care Management would keep</p>	<p>1 releases the information to ICM, but as far as</p> <p>2 HMMA would be concerned, so that we could</p> <p>3 receive information regarding if he was</p> <p>4 noncompliant.</p> <p>5 Q Has Hyundai received that information?</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 A I have not, sir.</p> <p>8 Q Has Hyundai?</p> <p>9 A I don't know, sir.</p> <p>10 Q Take a look at Bates number 282. This</p> <p>11 is a document which was in the file of</p> <p>12 Mr. Brookshire's given to me. And that is</p> <p>13 within his file, which was marked to his</p> <p>14 deposition as Plaintiff's Exhibit 14. You can</p> <p>15 just read over my shoulder. This is signed by</p> <p>16 Brookshire, and it says you must agree to allow</p> <p>17 the HMMA medical clinic to monitor your</p> <p>18 progress. That's the HMMA medical clinic?</p> <p>19 A Yes. That would -- and the provider</p> <p>20 down there would be ICM at the current time.</p> <p>21 Q Well, it says HMMA medical clinic.</p> <p>22 A That's really the location. It's a</p> <p>23 clinic that is on our site but it's manned by</p>

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ROBERT ALLEN CLEVENGER

Page 206	Page 208
<p>1 ICM.</p> <p>2 Q To monitor your progress and to</p> <p>3 communicate with the assessment and</p> <p>4 rehabilitation provider. Who is that?</p> <p>5 A It would be whomever ICM makes the</p> <p>6 arrangements with.</p> <p>7 Q And it says this requires you to sign</p> <p>8 the necessary forms authorizing the release of</p> <p>9 your medical information; is that correct?</p> <p>10 A Yes, sir.</p> <p>11 Q And are you familiar with this form?</p> <p>12 A I know of it. I don't know what it</p> <p>13 looks like specifically, but I know of it.</p> <p>14 Q And how does ICM communicate to the</p> <p>15 employer, which is HMMA?</p> <p>16 A I could only tell you what I believe</p> <p>17 takes place is once that form is signed it</p> <p>18 allows ICM to communicate with whomever is</p> <p>19 administering treatment and discuss the progress</p> <p>20 of that individual.</p> <p>21 Q Well, how does the employer -- you know</p> <p>22 what an employer is?</p> <p>23 A Yes, sir.</p>	<p>1 A I don't know if I know their system</p> <p>2 well enough to answer that question, sir,</p> <p>3 because I do know that they employ nurses and</p> <p>4 doctors.</p> <p>5 Q Well, are they a medical provider?</p> <p>6 MR. SCOFIELD: Object to the form.</p> <p>7 A I honestly don't know.</p> <p>8 Q You've never been over there?</p> <p>9 A I have. I just don't know -- I don't</p> <p>10 know if they would be termed as a medical -- or</p> <p>11 as a medical provider or not. I know there's</p> <p>12 nurses and doctors.</p> <p>13 Q So this says HMMA medical clinic, but</p> <p>14 that really means ICM?</p> <p>15 MR. SCOFIELD: Object to the form.</p> <p>16 A I think -- I believe that the reason it</p> <p>17 says HMMA medical clinic is because that</p> <p>18 provider is down there now. I suppose it really</p> <p>19 could be whomever HMMA contracts to operate that</p> <p>20 clinic.</p> <p>21 Q Has there been more than one company?</p> <p>22 A Not that I'm aware.</p> <p>23 Q And does the building have a sign on</p>
Page 207	Page 209
<p>1 Q That's HMMA?</p> <p>2 A Yes, sir.</p> <p>3 Q That's Brookshire's employer?</p> <p>4 A Yes.</p> <p>5 Q And this is a condition of employment?</p> <p>6 A Yes, sir.</p> <p>7 Q And one of the conditions is that he</p> <p>8 complies with all aspects of any prescribed</p> <p>9 rehabilitation program; that's correct, isn't</p> <p>10 it?</p> <p>11 A Yes, sir.</p> <p>12 Q All right. Well, how does ICM or the</p> <p>13 medical clinic communicate to HMMA?</p> <p>14 MR. SCOFIELD: Object to the form.</p> <p>15 A If there were -- if there were some</p> <p>16 noncompliance on a Team Member's part, that</p> <p>17 would be communicated by the provider to ICM and</p> <p>18 then ICM would in turn make myself aware.</p> <p>19 Q So ICM is not a medical provider?</p> <p>20 MR. SCOFIELD: Object to the form.</p> <p>21 Q The medical provider is whatever</p> <p>22 medical provider, like Alabama Psychiatric</p> <p>23 Services, that they contract to or with?</p>	<p>1 it?</p> <p>2 A It's actually an area within the</p> <p>3 Administration Building, sir.</p> <p>4 Q HMMA's Administration Building?</p> <p>5 A Yes, sir.</p> <p>6 Q Does it have identification on the</p> <p>7 door?</p> <p>8 A I honestly don't remember.</p> <p>9 Q It also says you're required to attend</p> <p>10 the substance abuse session that will be</p> <p>11 scheduled through HMMA's medical clinic.</p> <p>12 A Yes, sir.</p> <p>13 Q You say what that is is ICM?</p> <p>14 A I can tell you what my understanding</p> <p>15 is, is that ICM sets up an appointment with that</p> <p>16 medical -- or that substance abuse provider and</p> <p>17 then that information is shared back with ICM</p> <p>18 after that assessment.</p> <p>19 Q When an employee is discovered with</p> <p>20 cocaine in his system, why aren't the legal</p> <p>21 authorities called?</p> <p>22 MR. SCOFIELD: Object to the form.</p> <p>23 Q Obviously he's broken the law.</p>

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ROBERT ALLEN CLEVENGER

Page 210	Page 212
<p>1 MR. SCOFIELD: Same objection.</p> <p>2 A The way our policy is written if you're</p> <p>3 under the influence, you're removed from the</p> <p>4 site. We don't call legal authorities. But if</p> <p>5 you are -- you have a screen and it comes back</p> <p>6 non-negative, then that's sent out for</p> <p>7 confirmation. And then until there's a positive</p> <p>8 that comes back, then at that point nothing's</p> <p>9 done except for a Fit for Duty.</p> <p>10 Q Is there any policy that Hyundai has to</p> <p>11 your knowledge that if you're a felon with</p> <p>12 regard to drugs that you can't work there?</p> <p>13 MR. SCOFIELD: Object to the form.</p> <p>14 A The only thing that I'm aware of is on</p> <p>15 the employment application. I believe it asks</p> <p>16 that question. But I don't think that -- I</p> <p>17 don't believe it's targeted specifically towards</p> <p>18 drugs. I believe it just asks whether you have</p> <p>19 ever been convicted of a felony.</p> <p>20 Q Okay. Do you schedule all team</p> <p>21 discussions -- term discussions?</p> <p>22 A No.</p> <p>23 Q Who else does that?</p>	<p>1 A Yes, sir.</p> <p>2 Q And what was the subject?</p> <p>3 A I believe the one that I've seen is</p> <p>4 Sexual Harassment.</p> <p>5 MR. KILBORN: That's all I have. Thank</p> <p>6 you, Mr. Clevenger.</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 FURTHER DEPONENT SAITH NOT</p>
Page 211	Page 213
<p>1 A There's another assistant manager in</p> <p>2 the area. It just would depend on which shift</p> <p>3 something occurred. But at that time the</p> <p>4 position had not been filled, so it was just me</p> <p>5 at that time.</p> <p>6 Q Are the attendees always the same?</p> <p>7 MR. SCOFIELD: Object to the form.</p> <p>8 A Usually the Director of HR would be in</p> <p>9 there as well.</p> <p>10 Q Which would be who?</p> <p>11 A Which would be Mr. Kimble.</p> <p>12 Q Do you know why Mr. Kimble was absent</p> <p>13 from the Dees hearing?</p> <p>14 A I only know that he's on medical leave.</p> <p>15 Q Was he ill when he -- when this -- when</p> <p>16 this matter was taking place?</p> <p>17 MR. SCOFIELD: Object to the form.</p> <p>18 A I don't know the circumstances</p> <p>19 surrounding Mr. Kimble's medical leave, sir. I</p> <p>20 don't know.</p> <p>21 Q Have you ever seen any Power Point</p> <p>22 presentations by the Legal Department?</p> <p>23 MR. SCOFIELD: Object to the form.</p>	<p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 S T A T E O F A L A B A M A)</p> <p>4</p> <p>5 C O U N T Y O F A U T A U G A)</p> <p>6</p> <p>7</p> <p>8 I hereby certify that the above and</p> <p>9 foregoing deposition was taken down by me in</p> <p>10 stenotype, and the questions and answers thereto</p> <p>11 were transcribed by means of computer-aided</p> <p>12 transcription, and that the foregoing represents</p> <p>13 a true and accurate transcript of the testimony</p> <p>14 given by said witness upon said hearing.</p> <p>15 I further certify that I am neither of</p> <p>16 counsel, nor kin to the parties to the action,</p> <p>17 nor am I in anywise interested in the result of</p> <p>18 said cause.</p> <p>19</p> <p>20</p> <p>21 -----</p> <p>21 STACEY L. JOHNSON, Commissioner</p> <p>22 Certified Court Reporter,</p> <p>22 ACCR#: 386 - Expires 09-30-2008</p> <p>23 Commission Expires 06-22-2011</p> <p>23</p>

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SIGNATURE OF WITNESS

Robert Allen Clevenger

ERRATA SHEET

Page	Line	Explanation
------	------	-------------

[illegible]

interview with Jim Brookshire

On Feb 14 at approx. 1:00 AM, Jim went upstairs to check on some quality issues in the SOP. (Side outer)

Jim went up to the 3rd floor where he noticed Leon Deo sitting at operating station. Leon was positioned with his head down and his back was towards the cabinet.

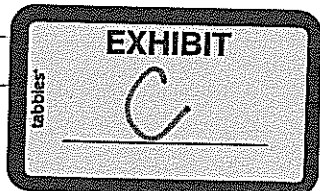
Jim observed Leon sitting in this position for approx. 2 minutes.

At this time Jim turned up his radio and let it chirp about 4 times before Leon responded.

Whenever Leon woke up he grabbed a pole and began to act like he was pulling trolleys.

Jim went around to check some panels and when he approached the area again he noticed Leon sitting in the same chair; however, this time he was alert. Not long after this Jim witnessed Leon walking down the stairs.

About 30 minutes passed by before Jim talked to Mr. Kevin Hughes. During this time Kevin did not know where Leon was.




J-A BL 2-15-07

Jim was approximately 25 feet away from Leon when he noticed that he was asleep.

Jim walked towards Leon and began chirping his radio at a distance approx 15 feet.

Due to Leon's hat being on his head Jim did not see his eyes closed; however he (Jim stated that his head was facing towards the floor, ~~with~~ with his chin tucked to his chest)

Q- A B
2-19-07

 HYUNDAI Hyundai Motor Manufacturing Alabama	Harassment Policy	HR-AL-HR-TR-S-00014
Revision Date: 4-Nov-04	Owner: Team Relations	Revision Level: 01

Harassment

HMMA is committed to providing a work environment that is free of discrimination and unlawful harassment. Actions, words, jokes, or comments based on an individual's sex, race, ethnicity, age (40+), religion, or any other legally protected characteristic will not be tolerated. Discrimination and unlawful harassment (both overt and subtle) are forms of misconduct that demean another person and undermine the integrity of the employment relationship. This type of behavior is strictly prohibited. Any Team Member engaging in unlawful discrimination or harassment may be subject to disciplinary action, up to and including termination of employment.

What is Harassment?

Harassment can take many forms. It may be, but is not limited to, words, signs, jokes, pranks, intimidation, physical contact, or violence. Harassment is not necessarily sexual in nature.

One form of illegal discrimination and harassment is sexual harassment. We may generally categorize "sexual harassment" as unwanted and unwelcome verbal, physical, or visual behavior or conduct that is either (1) sexual in nature or (2) directed at a person's gender where:

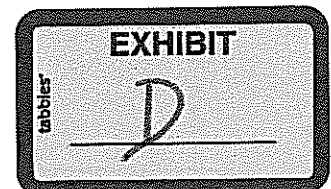
- Submission to the behavior may be perceived to be a term or condition of employment;
- Submission to or rejection of the behavior is used as the basis for making employment decisions such as promotions, transfers, annual evaluations, etc.; or
- Such conduct creates an intimidating, hostile, or offensive working environment or interferes with an individual's work performance.

Examples of sexual harassment include, but are not limited to, the following:

- Innuendoes, jokes, comments, slurs, invitations, or graphic commentary about an individual's body which are either sexual in nature or directed at a person's gender;

NOTICE: Paper copies of this Procedure should NOT be used for decision making purposes. Only use the electronic copy at R:HR Dept/Policies and forms/Policy & Procedure

1



- Sexually suggestive or obscene objects, pictures, cartoons, posters, calendars, clothing, notes, letters, emails, or electronic media;
- Sexual gestures, leering, touching, assaulting, or impeding or blocking movements.

1. Responsibility

As an HMMA Team Member, you are responsible for keeping our work environment free of harassment. Any Team Member who becomes aware of an incident of harassment, whether by witnessing the incident or being told of it, must report it to the Team Relations Manager or any member of management of HMMA with whom you feel comfortable. When HMMA becomes aware that harassment might exist, it will take prompt and appropriate action.

2. Reporting Harassment

If you feel that you have experienced harassment, you should take action immediately. If you are able, clearly explain to the person causing the harassment that you are uncomfortable with his or her behavior and request that the conduct cease immediately. If you are uncomfortable with that direct approach, report the incident immediately to the Team Relations Manager or any member of management of HMMA with whom you feel comfortable. HMMA will not retaliate against any Team Member who makes a good faith report of alleged harassment, even if the Team Member was in error.

3. Investigation of Complaints of Harassment/Confidentiality

All reports will be promptly investigated with due regard for the privacy of everyone involved. Due to the sensitive nature of complaints of sexual and other unlawful harassment, the Team Relations Department will investigate the complaints with particular care, and, to the extent possible, keep them confidential. Please be advised that anonymous claims usually cannot be investigated.

4. Immediate and Appropriate Corrective Action

Any Team Member found to have harassed a fellow Team Member or subordinate will be subject to severe disciplinary action or possible discharge. HMMA will also take any additional action necessary to correct the situation immediately.

5. Consensual, Romantic or Sexual Relationships

5.1 HMMA strongly discourages romantic or sexual relationships between Team Members.

5.2 HMMA prohibits romantic or sexual relationships between any HMMA member of management and any subordinate Team Member. Such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the Team Member. Moreover, given the uneven balance of power within such relationships, consent by the Team Member is suspect and may be viewed by others or, at a later date, by the Team Member himself or herself as having been given as a result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect which is essential to a healthy work environment.


I ACKNOWLEDGE RECEIPT OF THE HMMA ANTI-HARASSMENT POLICY
AND COMPLAINT POLICY.

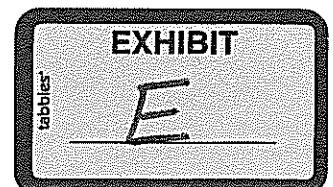
THIS POLICY IS PART OF THE COMPANY'S COMPLIANCE WITH
FEDERAL AND STATE LAW PROHIBITING HARASSMENT. THE
HARASSMENT POLICY CREATES NO CONTRACTUAL OBLIGATIONS ON
THE PART OF HMMA OR ITS TEAM MEMBERS AND DOES NOT ALTER
THE AT-WILL RELATIONSHIP BETWEEN HMMA AND ITS TEAM
MEMBERS. YOU ARE FREE TO RESIGN AT ANY TIME, AND HMMA HAS
THE SAME ABILITY TO TERMINATE THE EMPLOYMENT
RELATIONSHIP. THE COMPANY RESERVES THE RIGHT TO REVISE THIS
POLICY, WITHOUT NOTICE, TO RESPOND TO BUSINESS CONDITIONS AS
THEY ARISE.

[Team Member's Signature]

[Date]

ENT'D NOV 28 2006 *YKD*

 HYUNDAI Hyundai Motor Manufacturing Alabama		DISCUSSION PLANNER		HR-AL-HR-TR-F-00028	
Rev Date: 06/24/06		Owner: Team Relations		Revision Level: 02	
DATE					
15-Nov-06					
SUPERVISOR NAME <small>(originator of this document)</small>		John W Applegate			
DISCUSSION WITH Include T/M# & Department		Greg Prater, 100332, Plant Engineering, Press Maintenance Assistant Manager			
SITUATION To be discussed		On 11/15/06, Leon from the Press Shop complained that Greg was not treating him fairly concerning his military duty. He accused Greg of requiring written orders when not required and assigning him hard work as a form of punishment. I discussed the situation with Greg and Leon. This is another example of a communication problem in Press Maintenance.			
DESCRIBE PERSON INVOLVED * Performance/Work Habits Record * General Behavior * Specifics for KP-1		Greg Prater is the Assistant Manager for the Press Maintenance area. Over the past months he has experienced several problems managing his Team Leaders, Team Members and Specialists.			
OBJECTIVE(S) * What do you hope to accomplish in this discussion		Greg needs to improve his relationship with his subordinates.			
CRITICAL STEPS TO BE USED * Which key principles will you use? When?		Explanation that it is primarily his responsibility to improve this situation.			
BACKGROUND INFORMATION * Facts Known * Information Needed * Concerns * Possible cause(s)/reason(s) for the situation * Consequences to T/M if the situation continues * Other		Leon serves in the Guard and fulfills his duty on weekends and in the summers. Greg feels that Leon is taking advantage of his duty to get out of weekend work and that he is a disruption in the team. Greg has assigned Leon and others to unpopular jobs within the shop and Leon believes this is a form of punishment. The main problem is that Greg has a poor relationship with his Team Members which leads to this kind of miscommunication.			
ALTERNATIVES					



- * Possible actions/solutions
- * Resources available
- * Constraints

DISCUSSION SUMMARY

Met with Greg for a brief discussion of the problem. He blamed the situation on Leon. I informed him that regardless it was his responsibility to provide good communication and treat his Team Members fairly.

SPECIFIC ACTIONS:**PERSON RESPONSIBLE****BY WHEN**

Improve communication with his subordinates

Greg Prater

Immediately

FOLLOW-UP

- * Date, Time, Place
- * Other

REVIEW

To what extent did you meet your objectives?

What Critical Steps/Key Principles did you handle most effectively?

What Critical Steps/Key Principles could you have used more effectively?

What will you do differently in your next discussion?

GWANG MUN

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 NORTHERN DIVISION 4 CASE NO.: 2:07-cv-00306-MHT-CSC 5 6 JERRY LEON DEES, JR., 7 Plaintiff, 8 V. 9 HYUNDAI MOTOR MANUFACTURING ALABAMA, LLC and 10 HYUNDAI MOTOR AMERICA, INC., 11 Defendants. 12 13 14 15 16 STIPULATIONS 17 18 IT IS STIPULATED AND AGREED by and 19 between the parties, through their respective 20 counsel, that the deposition of GWANG MUN may be 21 taken before STACEY L. JOHNSON, Commissioner, at 22 the Hampton Inn, 60 Wasden Road, Hope Hull, 23 Alabama, on the 8th day of January, 2008.</p> <div style="border: 1px solid black; padding: 2px; text-align: center; width: fit-content; margin: 0 auto;">Exhibit F</div>	<p style="text-align: right;">Page 3</p> <p>1 INDEX 2 EXAMINATION BY: PAGE NUMBER: 3 Mr. Sport.....5-71 4 Mr. Johnson.....72-75 5 Mr. Sport.....76-77 6 7 EXHIBITS: 8 Plaintiff's Exhibit 27.....44 9 (organizational charts) 10 Plaintiff's Exhibit 28.....60 11 (photograph) 12 Plaintiff's Exhibit 29.....61 13 (photograph) 14 15 16 17 18 19 20 21 22 23</p>
<p style="text-align: right;">Page 2</p> <p>1 IT IS FURTHER STIPULATED AND AGREED 2 that the signature to and the reading of the 3 deposition by the witness is hereby waived, the 4 deposition to have the same force and effect as 5 if full compliance had been had with all laws 6 and rules of Court relating to the taking of 7 depositions. 8 IT IS FURTHER STIPULATED AND AGREED 9 that it shall not be necessary for any 10 objections to be made by counsel to any 11 questions except as to form or leading 12 questions, and that counsel for the parties may 13 make objections and assign grounds at the time 14 of trial, or at the time said deposition is 15 offered in evidence, or prior thereto. 16 IT IS FURTHER STIPULATED AND AGREED 17 that the notice of filing of the deposition by 18 the Commissioner is waived. 19 20 21 22 23</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES 2 FOR THE PLAINTIFF, JERRY LEON DEES, JR.: 3 KILBORN, ROEBUCK & McDONALD 4 Jeffrey R. Sport 5 (SPORJ5390) 6 jeff.sport@sportlaw.us 7 1810 Old Government Street 8 Mobile, Alabama 36606 9 (251) 479-9010 10 11 FOR THE DEFENDANTS, HYUNDAI MOTOR MANUFACTURING 12 ALABAMA, LLC and HYUNDAI MOTOR AMERICA, INC.: 13 OGLETREE, DEAKINS, NASH, SMOAK 14 & STEWART, P.C. 15 Matthew K. Johnson 16 P. O. Box 2757 17 Greenville, South Carolina 29602 18 19 HYUNDAI MOTOR MANUFACTURING ALABAMA, LLC 20 Christopher N. Smith 21 chrissmith@hmmausa.com 22 700 Hyundai Boulevard 23 Montgomery, Alabama 36105 24 (334) 387-8057 25 26 ALSO PRESENT: 27 MR. JERRY LEON DEES, JR. 28 MRS. KATHERINE DEES 29 MR. ROBERT CHU 30 MR. RAYMOND K. KIM (Interpreter) 31 32 33</p>

GWANG MUN

Page 5

1 I, STACEY L. JOHNSON, a CCR of Deatsville,
 2 Alabama, and Notary Public for the State of
 3 Alabama at Large, acting as Commissioner,
 4 certify that on this date, as provided by the
 5 Federal Rules of Civil Procedure and the
 6 foregoing stipulation of counsel, there came
 7 before me at 60 Wasden Road, Hope Hull, Alabama,
 8 beginning at 10:26 a.m., GWANG MUN, witness in
 9 the above cause, for oral examination, whereupon
 10 the following proceedings were had:

11 (Interpreter sworn.)

12 GWANG MUN,
 13 the witness, after having been first duly sworn
 14 to speak the truth, the whole truth, and nothing
 15 but the truth, testified as follows:

16 EXAMINATION

17 BY MR. SPORT:

18 Q Mr. Mun, good morning.

19 A (In English.) Good morning.

20 Q State your full name for the Record,
 21 please.

Page 6

1 THE INTERPRETER: Excuse me. Would you
 2 like me to --

3 MR. SPORT: Please.

4 THE INTERPRETER: -- interpret
 5 everything that -- that is transpiring here
 6 or --

7 MR. SPORT: I think that would probably
 8 be best.

9 A Okay. Could you repeat that question
 10 again?

11 Q State your full name for the Record,
 12 please.

13 A Mun Gwang Soeb.

14 Q And, Mr. Mun, how old are you?

15 A I was -- I was born in 1962. In Korea,
 16 the ages are counted differently than we do
 17 in -- in the United States. By Korean custom,
 18 I'm 47 years old, but by American standards, I'm
 19 45.

20 Q Well, I was also born in 1962, and I'm
 21 going to claim to be 45.

22 Are you a citizen of the Nation of
 23 Korea?

Page 7

1 A Yes.

2 Q And what is your residence status here
 3 in the United States?

4 THE INTERPRETER: I don't know --

5 MR. CHU: In-patriate. HMMA
 6 in-patriate or, slash, coordinator.

7 Q Okay. My -- my question really is, are
 8 you here under a visa or a green card or -- what
 9 is your immigration status?

10 A L1. I -- I hold an L1 Visa.

11 Q How long have you been in the United
 12 States?

13 A A year and six months.

14 Q And prior to that time, did you reside
 15 in Korea?

16 A Yes.

17 Q Have you ever given a deposition
 18 before?

19 A No. This is my first experience.

20 Q What we're going to do today is, I'm
 21 going to ask you questions; you'll give me
 22 answers. If you don't know the answer to a
 23 question, tell me that you don't know the

Page 8

1 answer. If you think of an answer later or
 2 think of a better answer or a more complete
 3 answer and you need to change a previous answer,
 4 just tell me that.

5 A I -- I understand.

6 Q Very good. What did you do to prepare
 7 for your deposition today?

8 A I -- I have done two things. The first
 9 is I watched a videotaped program that explains
 10 how the deposition process works. I watched --
 11 I watched -- I -- I discussed with the
 12 attorney -- general -- general process that he
 13 should expect today.

14 Q Was this discussion with Mr. Johnson?

15 A Yes.

16 Q And was Mr. Smith also there?

17 A Yes.

18 Q And was Mr. Kim who left already, was
 19 he present, also?

20 A No, he wasn't there.

21 Q Was anyone else present at these
 22 discussions?

23 A No.

2 (Pages 5 to 8)

GWANG MUN

<p style="text-align: right;">Page 9</p> <p>1 Q Did you review any documents prior to</p> <p>2 your deposition?</p> <p>3 A I -- I had a chance to read --</p> <p>4 THE INTERPRETER: By the way, what's</p> <p>5 his name? Leon?</p> <p>6 MR. SPORT: Leon Dees.</p> <p>7 THE INTERPRETER: How do you spell</p> <p>8 that?</p> <p>9 MR. SPORT: L-E-O-N.</p> <p>10 THE INTERPRETER: L-E-O-N. D --</p> <p>11 MR. SPORT: Dees, D-E-E-S.</p> <p>12 THE INTERPRETER: D-E-E-S.</p> <p>13 A I had a chance to review the document</p> <p>14 prepared by Mr. Leon Dees.</p> <p>15 Q And what document was that?</p> <p>16 A As I understand it, it was a record of</p> <p>17 a deposition.</p> <p>18 Q Okay. Very good. Is that the only</p> <p>19 document that you reviewed?</p> <p>20 A Yes.</p> <p>21 Q Mr. Mun, what is your position at HMMA?</p> <p>22 A I am a Coordinator.</p> <p>23 Q In what department?</p>	<p style="text-align: right;">Page 11</p> <p>1 a supervisor who reported to John Applegate.</p> <p>2 And so my question is, are you of equal level of</p> <p>3 management with Mr. Applegate or Mr. Prater or</p> <p>4 someone else?</p> <p>5 A No.</p> <p>6 THE INTERPRETER: The answer is no, but</p> <p>7 I -- would you like to...</p> <p>8 Q Does Mr. Applegate report to you?</p> <p>9 A No.</p> <p>10 Q Would Mr. Prater have been your</p> <p>11 American counterpart?</p> <p>12 A He was not at the same level, but he</p> <p>13 was a manager who was responsible for Press side</p> <p>14 of the operation.</p> <p>15 Q So Mr. Prater was not at the same level</p> <p>16 as Mr. Mun?</p> <p>17 A Coordinator is separate from</p> <p>18 Mr. Prater's organization.</p> <p>19 Q Who do you report to?</p> <p>20 A Director Kim Jun Ha.</p> <p>21 Q Are you an employee of HMMA, or are you</p> <p>22 an employee of Hyundai Motor Company?</p> <p>23 THE INTERPRETER: HMMA or Hyundai Motor</p>
<p style="text-align: right;">Page 10</p> <p>1 A (In English.) Plant Engineering.</p> <p>2 (By the interpreter.) Plant</p> <p>3 Engineering. I am Coordinator in Plant</p> <p>4 Engineering Department.</p> <p>5 Q As a Coordinator in Plant Engineering,</p> <p>6 what are your responsibilities?</p> <p>7 A I'm responsible for improving the</p> <p>8 productivity of the plant, and I'm also</p> <p>9 responsible for training of the workers.</p> <p>10 Q Do those responsibilities include both</p> <p>11 Production as well as Maintenance?</p> <p>12 A Just the Maintenance side.</p> <p>13 Q Do you have an American counterpart?</p> <p>14 A (In English.) I'm not understand.</p> <p>15 THE INTERPRETER: Could you explain?</p> <p>16 Could you elaborate?</p> <p>17 MR. SPORT: Yes.</p> <p>18 Q Ms. Warner in Human Resources has</p> <p>19 explained that within the plant there is what at</p> <p>20 least the Americans refer to as an American side</p> <p>21 and a Korean side. So as I understand the</p> <p>22 hierarchy of management on the American side, we</p> <p>23 had Mr. Dees who reported to Greg Prater who was</p>	<p style="text-align: right;">Page 12</p> <p>1 Company.</p> <p>2 A I belong to HMMA.</p> <p>3 Q Does HMMA pay your salary?</p> <p>4 A Yes. True.</p> <p>5 Q Ms. Warner indicated that there were 78</p> <p>6 or so ex-patriate Koreans that ran the HMMA</p> <p>7 plant and that they were employees of Hyundai</p> <p>8 Motor Company; is that correct?</p> <p>9 A That's not so. I receive my pay from</p> <p>10 HMMA. Five years later that organization may</p> <p>11 change to HMC.</p> <p>12 Q Okay. I don't understand that.</p> <p>13 A I am receiving my pay from HMMA.</p> <p>14 Q And what could happen in five years?</p> <p>15 A I will be returning to Korea in five</p> <p>16 years.</p> <p>17 Q Okay.</p> <p>18 THE INTERPRETER: May I add something?</p> <p>19 May I add a remark? I think he meant although</p> <p>20 he's being paid by HMMA now, his contract with</p> <p>21 the company is for him to work here for five</p> <p>22 years and then return to Korea. In that event,</p> <p>23 he will again will be belonging to HMC.</p>

3 (Pages 9 to 12)

GWANG MUN

Page 13

1 MR. SPORT: Okay. Well, let me ask it
2 that way so that we can confirm that with the
3 witness.
4 Q Do you have a five-year contract with
5 HMMA?
6 A That's true. As a Coordinator.
7 Q And did you work with HMC prior to
8 coming to the United States?
9 A Yes.
10 Q And when your five-year contract is
11 complete, will you be returning to work for HMC
12 in Korea?
13 A Yes.
14 Q While you're here in the United States,
15 does HMC have any control over you?
16 A No. While I'm here, I belong to HMMA.
17 Q You indicated that you report to
18 Director Kim?
19 A Yes, I did.
20 Q Who does Mr. Kim report to?
21 A He's now president, and his name is Kim
22 Hwae Il.
23 Q What was that name?

Page 14

1 THE INTERPRETER: Let me spell it for
2 you.
3 MR. SPORT: Okay.
4 THE INTERPRETER: K-I-M H-W-A-E and the
5 last is I-L.
6 Q Is Mr. Ahn no longer the president?
7 A He was transferred to Russia.
8 Q When was that?
9 A As of January 1st of this year.
10 Q Was his contract complete?
11 A Yes.
12 Q Do you agree that there is an American
13 side and a Korean side within the plant?
14 A Yes. What you call Korean side are
15 Coordinators. On the other side are the
16 American side, the managers.
17 Q What is the difference between a
18 manager and a Coordinator?
19 A Coordinators are responsible for
20 technical assistance. And the management side
21 manages the business, plant.
22 Q So -- so do the Coordinators have any
23 oversight responsibility with respect to

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1 management of Team Members?
2 A No.
3 Q Do you know whether or not -- I'm
4 sorry. Strike that. Do you know whether
5 American law or Korean law applies inside the
6 plant?
7 MR. JOHNSON: Object to the form.
8 A I don't know.
9 Q To your knowledge, has there ever been
10 a member of the Korean side that has been
11 terminated?
12 A I don't know if there was any.
13 Q Are you familiar with the policies and
14 procedures that HMMA has put into place to
15 administer the operation of the plant?
16 A I -- I was given a general overview of
17 that procedure and the rules when I first came
18 here, but I do not know them in detail.
19 Q Fair enough. Do you know whether those
20 policies and procedures govern the
21 administration and behavior of the Team Members
22 as well as the Koreans?
23 A I -- I don't know.

Page 16

1 Q Do the Coordinators participate in any
2 of the various management meetings, such as the
3 Termination Committee?
4 A I do not know for sure, but I don't
5 think they participate in such meetings. That
6 is, Coordinators participate in such meetings.
7 Q Does that mean that you have never
8 participated in any of those meetings?
9 A That's true.
10 Q When I visited the Administration
11 Building at HMMA, I noticed that there were
12 exhibits on the walls showing the different
13 components of the Hyundai business, such as the
14 research and design center in California,
15 manufacturing plant in -- here in Alabama, and
16 the HMC in -- in Korea. What is your
17 understanding of the relationship between those
18 three companies?
19 MR. JOHNSON: Object to the form just
20 for the Record.
21 A I don't know much about those things.
22 Q Do you know that there's a company in
23 California called HMA?

4 (Pages 13 to 16)

GWANG MUN

Page 17

1 A Yeah, I am aware of that. In LA.
 2 Q Correct. Correct. So you have no
 3 understanding of the relationship between HMA
 4 and HMMA?
 5 A I don't know if there's any
 6 relationship.
 7 Q Would it be fair to say that all of the
 8 Hyundai companies operate as one for the success
 9 of the whole?
 10 MR. JOHNSON: Object to the form.
 11 A Most likely.
 12 Q Okay. Do you know how often personnel
 13 from HMA in California visit the plant here in
 14 Alabama?
 15 MR. JOHNSON: Object to the form.
 16 A No, I don't know.
 17 Q Has anyone from HMA ever visited your
 18 department here in Alabama?
 19 MR. JOHNSON: Object to the form.
 20 A I don't know. I'm not aware.
 21 Q Have you ever visited HMA's offices in
 22 California?
 23 A No.

Page 18

1 Q Are you aware of anyone from HMC in
 2 Korea coming to visit the plant here in Alabama?
 3 A I'm not aware of it.
 4 Q Do you know anything about who owns the
 5 parts that are used to assemble the vehicles?
 6 A I -- I do not understand the -- the
 7 purpose of the question. I believe HMMA owns
 8 the equipment for assembly.
 9 Q Okay. And do you know who owns the
 10 vehicles once their assembly is complete?
 11 A (By the interpreter.) I guess they
 12 belong to HMA.
 13 (In English.) I'm not --
 14 (By the interpreter.) I'm not
 15 sure.
 16 (In English.) -- sure. Maybe my
 17 opinion is HMA.
 18 Q Why would you think that?
 19 A I'm just guessing.
 20 Q Are you aware that occasionally
 21 production at the plant needs to be either
 22 slowed down or halted for some period of days?
 23 A I'm working in the Stamping Department,

Page 19

1 so I'm not aware of things that are going on
 2 outside my jurisdiction.
 3 Q Does the Stamping Department never
 4 cease operations?
 5 A When the number of pieces -- planned
 6 pieces are completed, then we stop for a while.
 7 Q And who makes the decision?
 8 MR. JOHNSON: Object to the form.
 9 A I am -- I'm not sure who that is, but
 10 in any case, it isn't something done by us.
 11 That is, Coordinators do not.
 12 Q So someone tells you to stop production
 13 until you get the next directive to produce more
 14 parts?
 15 A No one specifically tells me to stop
 16 it, but I -- I am aware when the line stops
 17 because I'm always working with the process.
 18 Q Were you not aware that the plant was
 19 scheduled to be shut down for seven to ten days
 20 in December?
 21 MR. JOHNSON: Object to the form.
 22 A I was aware that production line
 23 stopped, but we as Maintenance people

Page 20

1 responsible for maintenance worked during that
 2 period.
 3 Q I understand. So the Maintenance
 4 personnel had maintenance activities to perform
 5 even though production was stopped?
 6 A That's true.
 7 Q Are you familiar with the Team Member
 8 Handbook?
 9 A I -- I don't know what you're talking
 10 about.
 11 Q Are you familiar with HMMA's Serious
 12 Misconduct Policy?
 13 A It was mentioned during my orientation
 14 program shortly after I arrived, but I don't
 15 know anything about the details.
 16 Q Do you believe that no matter what the
 17 policy provides in its details it should be
 18 applied to all Team Members evenly?
 19 MR. JOHNSON: Object to the form.
 20 A I don't know because I'm just a
 21 Coordinator.
 22 Q Mr. Mun, do you know Leon Dees?
 23 A Yes.

5 (Pages 17 to 20)

GWANG MUN

Page 21

1 Q How long have you known Mr. Dees?
 2 A Since August of last year.
 3 Q Of 2007 or 2006?
 4 A (In English.) 6. 2006.
 5 (By the interpreter.) 2006.
 6 Q So, as I understand it, then, Mr. Dees
 7 would have been employed at HMMA before you
 8 arrived?
 9 A I'm not sure about that, but I guess
 10 that is the case -- that was the case.
 11 Q You arrived at HMMA in August of 2006;
 12 is that correct?
 13 A It was July 24th of 2006.
 14 Q Do you believe that Mr. Dees is an
 15 honest man?
 16 MR. JOHNSON: Object to the form.
 17 A I have never had a -- a chance to
 18 develop a deep understanding of him.
 19 Q Do you believe that Mr. Dees is an
 20 honorable man?
 21 MR. JOHNSON: Object to the form.
 22 A I usually find it difficult to judge a
 23 man just by the face.

Page 22

1 Q You worked with Mr. Dees for seven
 2 months prior to him being terminated, did you
 3 not?
 4 A Until January of 2007, I used to work
 5 in the Welding Department, and at that time --
 6 that is, January of 2007 -- I moved over to
 7 Stamping Department and I have worked with
 8 Mr. Dees for about a month. I used to spend
 9 about roughly 80 percent of my time for the
 10 Welding side.
 11 Q Prior to January of 2007?
 12 A That is true.
 13 Q Did Mr. Dees ever give you any reason
 14 to believe that he was not honest?
 15 MR. JOHNSON: Object to the form.
 16 A No.
 17 Q Did Mr. Dees ever give you any reason
 18 to believe that he was not an honorable man?
 19 MR. JOHNSON: Object to the form.
 20 THE INTERPRETER: I have a little
 21 difficulty in interpreting the word honorable,
 22 so let me explain to him because I can't find
 23 the exact match -- matching word in Korean. May

Page 23

1 I ask him a little help?
 2 MR. JOHNSON: It's Mr. Sport's
 3 deposition.
 4 MR. SPORT: I don't have a problem with
 5 that as long as -- as long as the meaning of my
 6 question is ultimately conveyed to Mr. Mun.
 7 THE INTERPRETER: Okay. I'm assuming
 8 that there is a word for it, but I just can't
 9 think of it. And that's what I would like to
 10 tell him.
 11 MR. SPORT: A Korean word for --
 12 MR. CHU: I'm actually still trying to
 13 find the direct appropriate translation.
 14 THE INTERPRETER: These are cultural
 15 differences that sometimes -- the expression is
 16 not used in Korea that way, so it's difficult
 17 to -- honorable man.
 18 MRS. DEES: It means -- I would take it
 19 as wouldn't do anything out of line.
 20 MR. SPORT: Well, let me explain --
 21 THE INTERPRETER: It's -- it's --
 22 MR. SPORT: -- what I mean in English
 23 and then maybe you can find an appropriate way

Page 24

1 to phrase it in Korean. What I mean when I say
 2 an honorable man is he has integrity, he is
 3 honest, he -- he tells the truth, he behaves
 4 appropriately.
 5 MR. JOHNSON: Object to the form.
 6 A I would say that he is an honorable
 7 man.
 8 Q Okay.
 9 A It is a rather difficult question for
 10 me to answer because as I explained.
 11 Q I understand. Do you know Katherine
 12 Dees?
 13 A This is the first chance that I have to
 14 see her in person.
 15 Q Have you ever spoken with Mrs. Dees on
 16 the telephone?
 17 A I have talked with her twice on the
 18 phone.
 19 Q Do you know Greg Prater?
 20 A I do.
 21 Q How long did you know Mr. Prater?
 22 A About 14 months. Approximately 14
 23 months.

6 (Pages 21 to 24)

GWANG MUN

Page 25

1 Q During that time, were you able to form
2 any opinion of Mr. Prater?
3 MR. JOHNSON: Object to the form.
4 A It is hard for me to judge a person.
5 Q I know it might be hard to do, but did
6 you form an opinion as to Mr. Prater?
7 MR. JOHNSON: Object to the form.
8 A I did not judge the -- his character,
9 but I just worked with him.
10 Q Did his work performance ever give you
11 any indication that he might have flaws in his
12 character?
13 MR. JOHNSON: Object to the form.
14 A No, he has not.
15 Q To your knowledge, did Mr. Prater's
16 coworkers get along with him?
17 A I didn't think he was the smoothest
18 operator, smoothest working person with his
19 associates.
20 Q Does that mean -- when you say
21 associates, are you referring to the Team
22 Members that reported to Mr. Prater?
23 A His subordinates.

Page 26

1 Q Did any of Mr. Prater's subordinates
2 ever come to you and complain about Mr. Prater?
3 A No.
4 THE VIDEOGRAPHER: I need to change
5 tapes real quick.
6 MR. JOHNSON: Do you want to take a
7 break?
8 MR. SPORT: Yeah, let's take five
9 minutes.
10
11 (Whereupon, a brief recess was had in
12 the proceeding.)
13
14 THE VIDEOGRAPHER: Back on the Record.
15 Tape 2.
16
17 BY MR. SPORT:
18 Q Mr. Mun, I asked you a question before
19 the break about whether or not Mr. Dees was an
20 honorable man, and we had a bit of a problem
21 translating that phrase into Korean. And the
22 interpreter has now indicated that there is a
23 rough translation of that English expression,

Page 27

1 honorable man, in the Korean language, and he
2 has equated that to being a good man that would
3 be an honorable man or a bad man meaning a
4 dishonorable man. Is that your understanding?
5 MR. JOHNSON: Object to the form.
6 A I guess it's okay.
7 Q Okay. I was -- I was asking the
8 question based on the information that I had.
9 A I have a tendency to trust everybody
10 until they show otherwise. I think everybody's
11 a good man.
12 Q Did Mr. Prater ever show you that he
13 was not a good man?
14 MR. JOHNSON: Object to the form.
15 A I did not think there was any problem
16 with Mr. Prater as a person, but I did observe
17 some undesirable activities or behaviors.
18 Q In the workplace?
19 A It was interaction between him and
20 myself at the workplace.
21 Q Could you tell me about that?
22 A As an example, he did not -- on one
23 occasion did not complete a task that was

Page 28

1 promised to be completed on that day.
2 Q Did that task have anything to do with
3 why we're here today?
4 A No, it wasn't related.
5 Q What are some other examples?
6 A No, I do not have any other -- other
7 points to bring up.
8 Q What was the task that Mr. Prater did
9 not complete?
10 A He was supposed to acquire certain
11 supplies but that action was delayed.
12 Q Did that behavior result in any
13 disciplinary action?
14 A It -- it wasn't that significant and it
15 was easily corrected on that same day.
16 Q So when you indicated that there were
17 some problems with Mr. Prater's behavior, that's
18 the only incident to which you were referring?
19 A There was a tendency for him -- for
20 Mr. Prater not to live up to the commitment.
21 Q Generally or some specific commitment?
22 A I don't remember exactly, but I -- I
23 believe there were more than once.

7 (Pages 25 to 28)

GWANG MUN

Page 29

1 Q Did I understand you before the break
2 to say that none of Mr. Prater's subordinates
3 ever came to you and complained about
4 Mr. Prater?
5 A That's -- that's correct.
6 Q Did Mr. Dees ever come to you and
7 complain about Mr. Prater -- Mr. Prater
8 harassing him about his military obligations?
9 MR. JOHNSON: Object to the form.
10 A I don't -- I don't recall.
11 Q Are you aware that Mr. Prater has left
12 HMMA?
13 A Yes, I do.
14 Q Are you aware of why he left HMMA?
15 A I understand that he moved on to a
16 place closer to his hometown and then also
17 his -- his salary has been increased.
18 Q So as far as you know, he left for more
19 money and to be closer to home?
20 A That's how I understand it.
21 Q Do you know Jim Brookshire?
22 A Yes, I do.
23 Q How long have you known Mr. Brookshire?

Page 30

1 A As soon as I came here, I got to know
2 him.
3 Q Earlier when I asked you about how long
4 you had known or worked with Mr. Dees, you had
5 indicated that you came to Stamping Maintenance
6 full time in January of 2007, but then you
7 indicated that you worked -- prior to that you
8 had worked 80 percent of the time in Body Weld.
9 Was the other 20 percent of the time in Stamping
10 Maintenance?
11 A Yes, 20 percent of the time was spent
12 on Stamping side.
13 Q So from the time that you began working
14 at HMMA, you had responsibility for both Body
15 Weld and Stamping Maintenance?
16 MR. JOHNSON: Object to the form.
17 A I -- since I am a technician, I -- I
18 was asked to work on both sides, that is,
19 Stamping side and Body side.
20 Q Okay. Do you know whether or not
21 Mr. Brookshire and Mr. Prater knew one another?
22 A I believe so they knew each other.
23 Q Do you know whether or not they were

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1 friends?
2 A I don't know that part.
3 Q Did you see them together frequently in
4 the plant?
5 A Vaguely I must have seen them together,
6 but not specifically.
7 Q Do you know what Mr. Brookshire's
8 responsibilities were?
9 A He was on the side of Production
10 Stamping, so I -- I don't know that
11 responsibility very well.
12 Q Did you ever see Mr. Prater sleeping at
13 his desk in the Stamping Maintenance office?
14 MR. JOHNSON: Object to the form.
15 A No.
16 Q If Mr. Prater had slept sitting at that
17 desk, would that have been acceptable behavior?
18 MR. JOHNSON: Object to the form.
19 A I don't know how the rules apply in
20 such cases.
21 Q Well, let's just assume that there's no
22 rule. Would you expect to find someone asleep
23 at work while they were being paid?

Page 32

1 MR. JOHNSON: Object to the form.
2 A I -- I don't think company will accept
3 that behavior.
4 Q Did you come to form any opinion about
5 Mr. Brookshire?
6 MR. JOHNSON: Object to the form.
7 A I don't know him very well. I only
8 recognize his face.
9 Q You've never worked with Mr. Brookshire
10 for any reason?
11 A There was no contact with him.
12 Q Are you aware that it was
13 Mr. Brookshire that supposedly caught Mr. Dees
14 asleep?
15 A Yeah, I heard that.
16 Q Were you also aware that about that
17 same time or shortly within a couple of weeks
18 one way or the other that Mr. Brookshire hurt
19 himself at the plant and as a result of going to
20 the medical office had to get a drug test and
21 failed his drug test?
22 MR. JOHNSON: Object to the form.
23 A No, I have not heard.

8 (Pages 29 to 32)

GWANG MUN

Page 33

1 Q Do you have any opinion as to whether
2 or not that fact, assuming it occurred, would
3 have any impact on Mr. Brookshire's reliability?

4 MR. JOHNSON: Object to the form.

5 A Since I do not decide such methods, I
6 don't have any opinion.

7 Q It has been suggested by other
8 witnesses in this case that in a situation where
9 there's a dispute as to a fact between a Team
10 Member and a supervisor that the word of the
11 supervisor should always be believed because
12 that person is a supervisor.

13 MR. JOHNSON: Object to the form.

14 Q Is that your understanding of how the
15 business is run within the plant?

16 MR. JOHNSON: Object to the form.

17 A I've never heard such talks.

18 Q If there was a factual dispute or
19 disagreement between a subordinate and a
20 supervisor, how do you think that dispute should
21 be resolved?

22 MR. JOHNSON: Object to the form.

23 A They should discuss the problem further

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1 until they come to an agreement.

2 Q If -- if they cannot agree, what should
3 happen?

4 MR. JOHNSON: Object to the form.

5 A Since I am a technician basically, we
6 usually resolved the differences because we can
7 understand technically what's better or worse or
8 which one's correct and incorrect.

9 Q I understand that from a technical
10 standpoint, but what we have here in this case
11 is we have a Production supervisor alleging that
12 a Stamping Maintenance subordinate was asleep.
13 The Stamping Maintenance subordinate says that
14 he was not asleep. In that situation, should
15 the word of the Production supervisor be
16 believed simply because he is a Production
17 supervisor?

18 MR. JOHNSON: Object to the form.

19 A It is a difficult question, but I don't
20 know how.

21 Q You indicated that none of the Stamping
22 Maintenance employees ever came to you and
23 complained about Mr. Prater. Are you aware of

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1 whether or not any of those Team Members went to
2 Human Resources and complained about Mr. Prater?

3 A I don't know what it involved -- what
4 was involved, but I've heard once that somebody
5 complained about something in the Human
6 Resources department.

7 Q Relating to Mr. Prater?

8 A That part, I don't know whether it was.

9 Q Are you aware of whether or not any
10 Stamping Maintenance Team Members complained to
11 Human Resources about Mr. Applegate?

12 A No.

13 Q Did any of the Stamping Maintenance
14 Team Members come to you and complain about
15 Mr. Applegate?

16 A No.

17 Q Do you know John Applegate?

18 A Yes, I do.

19 Q What are his responsibilities at HMMA?

20 A He's a senior manager in the Plant
21 Engineering department.

22 Q Does he have responsibility for
23 Stamping Maintenance?

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1 A That's what I believe.

2 Q So Mr. Prater would have reported to
3 Mr. Applegate?

4 A Yes.

5 Q Do you know whether Mr. Applegate would
6 have any reason to want to get rid of Mr. Dees?

7 A I don't know that.

8 Q Do you know Kevin Hughes?

9 A Yes, I do.

10 Q And what are his responsibilities at
11 HMMA?

12 A He is a Team Leader.

13 Q And what is a Team Leader?

14 A He's a -- he's a leader of a group of
15 people which is a team.

16 Q Is that Team Leader below the level of
17 supervisor?

18 A In HMMA, there are -- they do not use
19 supervisors. There are Team Leaders.

20 Q So what was Mr. Prater?

21 A He was a supervisor and assistant
22 manager.

23 Q Are you aware of whether or not

9 (Pages 33 to 36)

GWANG MUN

Page 37

1 Mr. Hughes had any problems with the members of
2 his team?

3 MR. JOHNSON: Object to the form.

4 A No, I do not know.

5 Q Mr. Mun, explain to me exactly what it
6 is that a Coordinator does.

7 A Main purpose -- main objectives of a
8 Coordinator is to improve productivity and work
9 operations and also to train the workers for
10 that purpose, that is, to improve productivity
11 and improve the processes.

12 Q So part of your responsibilities would
13 include training or helping to train the Team
14 Members within Stamping Maintenance; is that
15 correct?

16 A Formal training was a responsibility of
17 the Production side, but as a technician
18 Coordinator, I helped people around me in
19 performing the work.

20 Q Would that include the Team Members in
21 Stamping Maintenance?

22 A Yes.

23 Q So in the performance of your duties at

Page 38

1 HMMA, you had the opportunity on a daily basis
2 to work with the Team Members in Stamping
3 Maintenance?

4 MR. JOHNSON: Object to the form.

5 A It's not that I worked daily with the
6 people in the Maintenance, but when there was
7 any problems, then I would come in to help them.

8 Q And if there were no problems in
9 Stamping Maintenance, what would you be doing?

10 A There's almost no day without any
11 problems.

12 Q Okay. Well, that leads me back to my
13 earlier question which was, so, then, on a daily
14 basis, you interacted with the people in
15 Stamping Maintenance?

16 MR. JOHNSON: Object to the form.

17 A Yeah, I could meet any one of those
18 people in Stamping Maintenance and work to solve
19 the problem.

20 Q Whoever was working on that day?

21 A Yes, that's true.

22 Q And so would you have had an
23 opportunity to observe the interactions of the

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1 Stamping Maintenance Team Members with one
2 another and with their Team Leader and with
3 their supervisor?

4 A Yes, of course.

5 Q I'm sorry, Mr. Mun. I don't remember
6 the answer to this question, but I believe I've
7 already asked you. Did you observe any problems
8 that Mr. Hughes might have had with his Team
9 Members?

10 MR. JOHNSON: Object to the form.

11 A There were no problems.

12 Q Do you know Wendy Warner?

13 A No, I don't know.

14 Q Do you know Rob Clevenger?

15 A Vaguely. Vaguely.

16 Q Do you know Mr. Dees' former coworkers,
17 former Team Members?

18 A Yes, I do.

19 Q Do you have any opinion of those Team
20 Members as to whether or not they're good people
21 or bad people?

22 MR. JOHNSON: Object to the form.

23 A As I said earlier, I believe most

Page 40

1 people are good.

2 Q Okay. Did you come to believe that any
3 of those Team Members were bad?

4 MR. JOHNSON: Object to the form.

5 A No.

6 Q Did any of those Team Members ever give
7 you any reason to believe that they were not
8 honest?

9 MR. JOHNSON: Object to the form.

10 A No.

11 Q Did any of those Team Members ever give
12 you a reason to believe that they were not
13 truthful?

14 MR. JOHNSON: Object to the form.

15 A No, there was no such thing.

16 Q Do you have any knowledge of any other
17 HMMA Team Member being caught sleeping on the
18 job?

19 A No, I don't.

20 Q Do you know a Team Member by the name
21 of Orlando King?

22 A No.

23 Q Are you familiar with how Mr. Prater

10 (Pages 37 to 40)

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<p style="text-align: right;">Page 41</p> <p>1 assigned the duties to the Team Members within</p> <p>2 Stamping Maintenance?</p> <p>3 MR. JOHNSON: Object to the form.</p> <p>4 A I don't -- I don't understand the</p> <p>5 question.</p> <p>6 Q Each day when a -- when the shift</p> <p>7 changed a group of Team Members in Stamping</p> <p>8 Maintenance would come into work. Those Team</p> <p>9 Members had to accomplish all the activities</p> <p>10 that were on the schedule that evening in</p> <p>11 Stamping Maintenance. And my question is, do</p> <p>12 you know how Mr. Prater assigned those various</p> <p>13 activities to the Team Members.</p> <p>14 MR. JOHNSON: Object to the form.</p> <p>15 A I don't understand how he did it.</p> <p>16 Q Do you recall whether or not Mr. Prater</p> <p>17 would assign a Team Member to a specific area</p> <p>18 within Stamping Maintenance and then have that</p> <p>19 individual or that Team Member remain in that</p> <p>20 area during their shift?</p> <p>21 MR. JOHNSON: Object to the form.</p> <p>22 A I don't have such information.</p> <p>23 Q Do you only work day shift or during</p>	<p style="text-align: right;">Page 43</p> <p>1 half?</p> <p>2 MR. SPORT: Something like that.</p> <p>3 MR. JOHNSON: Are y'all okay with</p> <p>4 that? Are you okay with that? Did you</p> <p>5 understand?</p> <p>6 THE WITNESS: Yeah, it's okay.</p> <p>7 MR. SPORT: We're not taking an hour</p> <p>8 and a half lunch break. I mean, I'll be</p> <p>9 finished in an hour and a half after we take a</p> <p>10 short lunch break. I'm diabetic and I need to</p> <p>11 get a little something.</p> <p>12 THE VIDEOGRAPHER: Off the Record.</p> <p>13</p> <p>14 (Whereupon, a lunch recess was had in</p> <p>15 the proceeding.)</p> <p>16</p> <p>17 THE VIDEOGRAPHER: Back on the Record.</p> <p>18 Tape 3.</p> <p>19</p> <p>20 BY MR. SPORT:</p> <p>21 Q Mr. Mun, during the break, did you have</p> <p>22 discussions with anyone?</p> <p>23 A No.</p>
<p style="text-align: right;">Page 42</p> <p>1 the daytime?</p> <p>2 A Yeah, I do.</p> <p>3 Q So if a Team Member was working the</p> <p>4 night shift, you would not be there to see that</p> <p>5 Team Member?</p> <p>6 A I usually stay in the plant until about</p> <p>7 eight p.m., so I get a chance to see some of</p> <p>8 those people in the evening.</p> <p>9 Q At the beginning of the shift?</p> <p>10 A Yes.</p> <p>11 Q Do you recall what area of Stamping</p> <p>12 Maintenance you would normally see Mr. Dees?</p> <p>13 A He was on the -- on the SOP side.</p> <p>14 Q And that's where you normally saw him?</p> <p>15 A I didn't visit the SOP very often, so I</p> <p>16 didn't see him there. But on the floor,</p> <p>17 occasionally I ran into him.</p> <p>18 MR. SPORT: It's coming up on 12:30.</p> <p>19 Let's take a little break. And in the meantime,</p> <p>20 I'm going to get my -- the proper next exhibit</p> <p>21 number and I ought to be able to wrap it up an</p> <p>22 hour and a half or so after lunch.</p> <p>23 MR. JOHNSON: You think an hour and a</p>	<p style="text-align: right;">Page 44</p> <p>1 Q You didn't talk to anyone?</p> <p>2 A I talked with the interpreter on</p> <p>3 personal things.</p> <p>4</p> <p>5 (Whereupon, Plaintiff's Exhibit</p> <p>6 Number 27 was marked for identification</p> <p>7 and copy of same is attached hereto.)</p> <p>8</p> <p>9 Q Mr. Mun, I'm going to show you what</p> <p>10 I've marked as Plaintiff's Exhibit 27. These</p> <p>11 are two organizational charts that I got from</p> <p>12 your lawyers. I want you to --</p> <p>13 MR. SPORT: They're stamped with my</p> <p>14 work copy, but that's the only one I've got.</p> <p>15 Does that look like what you gave me?</p> <p>16 MR. JOHNSON: Looks like it.</p> <p>17 Q I'm going to show that to you, Mr. Mun,</p> <p>18 and ask you have you ever seen that before.</p> <p>19 A I don't recall exactly whether I saw</p> <p>20 that before, but looks like I may have seen it.</p> <p>21 Q Or some version of it?</p> <p>22 A Yes.</p> <p>23 Q The first page appears to show an</p>

11 (Pages 41 to 44)

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1 organizational chart for the Maintenance group;
2 is that correct?

3 A Yes.

4 Q And the -- the columns that go across
5 the page from left to right appear to be the
6 various departments within Maintenance. And I
7 believe the first column on the left is Stamping
8 Maintenance; is that correct?

9 A That's true.

10 Q And is that your name at the very top
11 of that column?

12 A Yes, it is correct.

13 Q So that organizational chart that has
14 been given to me by your lawyers shows you as
15 being the senior manager of Stamping, not a
16 Coordinator. Can you explain that to me?

17 A This -- this organizational chart
18 indicate that -- the functions of the various
19 department. But I do not have any managerial
20 responsibility, and I am -- I'm working as a
21 Coordinator, a technical Coordinator for the
22 department, not as a manager and I'm not a part
23 of management organization.

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1 Q Okay. And I understood your testimony
2 earlier, and that's why I'm asking you this
3 question. There appear to be several
4 Coordinators on the chart right here, and
5 there's also two Coordinators on the chart up
6 above in between Mr. Applegate and Mr. -- I
7 think that's Mr. Kim. So if -- if you are a
8 Coordinator, why is your name not listed over
9 here with the Coordinators?

10 A This is the first time I see this
11 particular chart, and I don't know who made this
12 chart, for what purpose.

13 Q Okay. If you'll notice the date up at
14 the top it appears to be February of 2007.
15 Would you agree with that?

16 A It looks like it was prepared on that
17 date.

18 Q So sometime about the same month that
19 Mr. Dees was terminated and during the relevant
20 time that I've been asking these questions about
21 this chart was prepared. Is that -- is that the
22 way it appears?

23 A Looks like it was about the same time.

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1 Q Would there be any purpose for
2 preparing an organizational chart other than to
3 show the structure of the organization?

4 MR. JOHNSON: Object to the form.

5 A There is definitely a substantial
6 difference -- or I should substantive difference
7 between my actual function and what the chart
8 indicates. I am working as Coordinator, not a
9 manager.

10 Q Is the chart incorrect?

11 MR. JOHNSON: Object to the form.

12 A I am wondering whether this chart was
13 prepared to show the managerial organizations or
14 something else. I understood this to be a chart
15 to show technical organizations, but...

16 Q Okay. I understand your comment. But
17 you have testified that you are a Coordinator;
18 is that correct?

19 A Yes, I did.

20 Q And this chart shows Coordinators such
21 as yourself or such as the position that you say
22 that -- that you hold and yet you are not shown
23 as one of those Coordinators. So my question

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1 is, is the chart incorrect.

2 A It appears that there are two
3 Coordinators on these vertical lines. But one
4 of them is remaining on this chart but the other
5 one has been taken off from that to be shown
6 here. And it appears that this was drawn up to
7 show the technical functions.

8 Q Okay. So is it your testimony that one
9 of the Coordinators over here is also a
10 Coordinator for Stamping Maintenance?

11 A There -- there is only one Coordinator
12 in Stamping, but the second Coordinator in
13 Stamping section joined us in October, last
14 October. Other than that, these are all
15 shown -- these Coordinators are all shown here
16 as a second Coordinator in that department --
17 rather, sections.

18 Q I don't understand that. You're going
19 to have to explain that to me because I don't
20 see a second Coordinator.

21 A He's not listed on this chart.

22 THE INTERPRETER: You remember, if I
23 may, this was -- this chart was prepared in

12 (Pages 45 to 48)

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1 February of last year and this man joined in
 2 October.
 3 Q In October? Three months ago?
 4 A Yes.
 5 Q So that has nothing to do, then, with
 6 this chart or my question. You are shown on
 7 this chart as senior manager of Stamping, but
 8 you are not, according to you, senior manager of
 9 Stamping.
 10 A When I was with HMC in Korea, my job
 11 title was senior manager, and since I came here
 12 since there was a mismatch with the actual
 13 function and the title, they changed it.
 14 Q They changed what to what?
 15 A To Coordinator. Senior Coordinator.
 16 And this chart doesn't reflect that.
 17 Q So this chart is wrong?
 18 A (In English) Not wrong. That time --
 19 (By the interpreter) In that time
 20 it must have been correct, but it's not what I
 21 do now.
 22 Q Okay. Earlier today I asked you
 23 questions about what your responsibilities

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1 were. And we talked specifically about the
 2 seven or so months between the time you arrived
 3 at HMMA at the end of July of 2006 and when
 4 Mr. Dees was terminated on February 26th or so
 5 of 2007. And you testified that you became
 6 Stamping full-time Coordinator in January of
 7 2007 and prior to that you were -- you worked in
 8 both Stamping and in --
 9 THE INTERPRETER: Welding.
 10 Q -- Body Weld. 80 percent Body Weld, 20
 11 percent Stamping. Is that a fair summary of
 12 what your testimony was?
 13 MR. JOHNSON: Object to the form.
 14 A Yes, it was.
 15 Q Okay. And between February of 2007 and
 16 today, you have remained the Coordinator for
 17 Stamping; is that correct?
 18 A Yeah. Yes, I am.
 19 Q Okay. So except for the change in
 20 January of 2007 from working 80 percent of the
 21 time with Body Weld and 20 percent of the time
 22 with Stamping, you have performed essentially
 23 the same duties since you started with HMMA?

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1 MR. JOHNSON: Object to the form.
 2 A That's true.
 3 Q So it's your testimony that at no time
 4 during your tenure at HMMA have you been senior
 5 manager of Stamping?
 6 MR. JOHNSON: Object to the form.
 7 A Could you explain that, or could you
 8 ask me the question again?
 9 Q Yes. I'm trying to understand his
 10 testimony. And as I understand his testimony,
 11 he has -- he has testified that at no time
 12 during the time he has been at HMMA has he been
 13 senior manager of Stamping Maintenance.
 14 MR. JOHNSON: Object to the form.
 15 A I have never worked as a manager since
 16 I arrived in the United States.
 17 Q So at all times since you have been at
 18 HMMA, you have been either a Coordinator or a
 19 Senior Coordinator or something like that?
 20 MR. JOHNSON: Object to the form.
 21 A That's correct. Correct.
 22 Q Okay. If I asked you this question
 23 earlier, please forgive me. But are you aware

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1 of any other employees caught sleeping on the
 2 job besides Mr. Dees?
 3 MR. JOHNSON: Object to the form.
 4 A I do not have any such information.
 5 Q How did you learn that Mr. Dees had
 6 been fired?
 7 A I heard it from Mr. Dees when he called
 8 me.
 9 Q And do you recall when it was that he
 10 called you?
 11 A I don't remember the exact date, but it
 12 was in February of 2007.
 13 Q Was it the exact day he was fired?
 14 A It was the same day.
 15 Q What did Mr. Dees tell you when he
 16 called you?
 17 A I heard that he said he was fired, but
 18 there was some other things said but I do not
 19 recall what they were.
 20 Q Did he tell you why he was fired?
 21 A I don't recall exactly what he said,
 22 but I -- I found out or I learned when his wife
 23 called me.

13 (Pages 49 to 52)

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1 Q Did she make a separate phone call to
2 you, or did she talk to you on the same phone
3 call?

4 A The telephone was turned over to her.

5 Q Okay. What did Mrs. Dees tell you?

6 A I remember there were two things.
7 First item was that he did not sleep on his job
8 but he was accused of having done that. He was
9 fired but without due evaluation of the event.

10 Q And what do you mean by due evaluation
11 of the event?

12 MR. JOHNSON: Object to the form.

13 A The -- the due course was not my words;
14 it was Mrs. Dees'. And her point was that if
15 one is to be fired, there must be a due process
16 of evaluating the fact of the matter before they
17 actually firing someone.

18 Q And is that evaluation process your
19 understanding of how HMMA normally conducts its
20 inquiry into events like this?

21 MR. JOHNSON: Object to the form.

22 A From my experience from Korea if
23 someone is accused of wrongdoing, there usually

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1 was some procedure to confirm whether such
2 findings were correct or incorrect.

3 Q Did that procedure include an
4 investigation of the circumstances of what
5 happened and interviews with potential
6 witnesses?

7 MR. JOHNSON: Object to the form.

8 A Exactly what's included in such
9 procedure, I do not know, but there should have
10 been some sort of investigation or procedures
11 before one is fired.

12 Q So you said that Mrs. Dees told you two
13 things, that Mr. Dees was not asleep but he was
14 accused of sleeping and he was fired without due
15 evaluation of the event. Is there anything else
16 that Mrs. Dees told you?

17 A I am guessing that there were other
18 things that we talked about, but I do not
19 remember exactly what they were.

20 Q Okay. Well, your lawyer will tell you
21 not to guess, and I don't want you to guess
22 either.

23 A I don't recall.

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1 Q After she told you these things, what
2 did you say to her?

3 A Since she said that Mr. Dees did not
4 fall sleep on his job, I told her that I would
5 try to find out what actually happened.

6 Q So it was Mrs. Dees that -- that -- oh,
7 no, you volunteered to -- to check into it?

8 A I don't remember whether I volunteered
9 or she asked me.

10 Q Okay. Prior to Mr. Dees being fired,
11 was Mr. Dees a good Team Member?

12 MR. JOHNSON: Object to the form.

13 A I -- I like almost everybody anyway.

14 Q But did Mr. Dees do his job in your
15 opinion?

16 MR. JOHNSON: Object to the form.

17 A I did not have a thorough understanding
18 of all the coworkers at the time.

19 Q Okay. I'm not asking about all of the
20 coworkers; I'm asking about Mr. Dees
21 specifically.

22 A Because -- because he was one of the
23 employees there, I didn't have any particular

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1 understanding.

2 Q So when -- when Mr. Dees called you and
3 you subsequently had the conversation with
4 Mrs. Dees, did it seem odd that they would call
5 you?

6 A I didn't have any strong feelings one
7 way or another, but I was just wondering how he
8 got hold of my telephone number at the time.

9 Q Do you know how he got your number?

10 A I -- I might have -- I might have given
11 him my own telephone numbers, but I do not
12 recall exactly whether I did or did not.

13 Q Is it your testimony that your
14 relationship with Mr. Dees was no different than
15 your relationship with any other Team Member in
16 Stamping Maintenance?

17 MR. JOHNSON: Object to the form.

18 A They were the same.

19 Q Did you discuss with all Team Members
20 the possibility of going fishing at their house?

21 A I have expressed my desire to go
22 hunting or something else to other members of
23 the team.

14 (Pages 53 to 56)

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<p style="text-align: right;">Page 57</p> <p>1 Q Did you think it was unusual for 2 Mr. and Mrs. Dees to call you and tell you what 3 had happened? 4 MR. JOHNSON: Object to the form. 5 A A little. 6 Q Why did you agree to check into the 7 matter? 8 A I thought I should help clear up the 9 situation if someone is accused of doing 10 something they claim they didn't, whether it was 11 Mr. Dees or someone else. 12 Q Isn't it true, Mr. Mun, that Mr. Dees 13 was a very good worker and that this accusation 14 that led to his firing was totally out of 15 character for Mr. Dees? 16 MR. JOHNSON: Object to the form. 17 A My feeling was not that strong. 18 Q Was it a feeling along those lines but 19 may be not quite as strong as I expressed it? 20 MR. JOHNSON: Object to the form. 21 A I do not understand the point of your 22 question. 23 Q Well, I'm just trying to -- to</p>	<p style="text-align: right;">Page 59</p> <p>1 A Probably. 2 Q And what did Mr. -- well, scratch 3 that. 4 Who told you that Mr. Brookshire had 5 filled out the report? 6 A Greg Prater. 7 Q So the first person you talked to was 8 Mr. Prater, and he told you that Mr. Brookshire 9 had filled out the report? 10 MR. JOHNSON: Object to the form. 11 A I did ask Mr. Prater what happened, and 12 Jim Brookshire -- and he said Jim Brookshire 13 filled out the report. 14 Q And when you talked to Mr. Brookshire, 15 what did he tell you? 16 A He explained what it looked like from 17 the third floor, and I read his report. 18 Q Do you recall anything about what he 19 told you it looked like? 20 A Yes, I do remember what he told me. 21 Q And what was that? 22 A I went to the place with him. 23 Q The place where he allegedly saw</p>
<p style="text-align: right;">Page 58</p> <p>1 ascertain why it was that you agreed to help 2 these people if you had absolutely no 3 relationship with them beyond knowing who 4 Mr. Dees was at work. 5 A I feel I should try to help anybody who 6 is falsely accused of wrongdoing. 7 Q Did you think he was falsely accused at 8 that point? 9 MR. JOHNSON: Object to the form. 10 A Aside from the fact I was just told by 11 Mr. and Mrs. Dees that he was accused of 12 sleeping. 13 Q Falsely? 14 A Falsely. 15 Q Did you actually check into why 16 Mr. Dees had been fired? 17 A Yes. 18 Q Who did you make inquiries to? 19 A I was told that a man by the name of 20 Jim filled out the report, and I did talk to 21 Jim. 22 Q So you talked to Mr. Brookshire? 23 MR. JOHNSON: Object to the form.</p>	<p style="text-align: right;">Page 60</p> <p>1 Mr. Dees asleep? 2 A Yes. 3 Q And what happened when you went to the 4 place? 5 A He was sitting in his chair and was 6 sleeping. 7 Q That's what Mr. Brookshire told you? 8 A Yes. 9 Q So when you went up to the third floor 10 mezzanine near the PLC controller, what did you 11 see? 12 A There was a chair on the side. 13 Q On the side of what? 14 A Beside the control panel. 15 16 (Whereupon, Plaintiff's Exhibit 17 Number 28 was marked for identification 18 and copy of same is attached hereto.) 19 20 Q I'm going to show you what I've marked 21 as Plaintiff's Exhibit Number 28. Is that what 22 you saw? 23 A I'm not sure, but when I was there,</p>

15 (Pages 57 to 60)

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1 this chair was sitting on the left side.
 2
 3 (Whereupon, Plaintiff's Exhibit
 4 Number 29 was marked for identification
 5 and copy of same is attached hereto.)
 6
 7 Q Okay. Let me show you what I've marked
 8 as Exhibit 29. Is that closer to what you saw
 9 but the chair is on the wrong side?
 10 A I remember the chair was on the left
 11 side.
 12 Q So -- and the positioning of the doors,
 13 were the doors closed?
 14 A I believe it was closed.
 15 Q And this visit that you made with
 16 Mr. Brookshire up to the third floor mezzanine
 17 would have been the day after Mr. Dees was
 18 fired?
 19 A It was the next day.
 20 Q Did you call Mrs. Dees back?
 21 A Yes, I did.
 22 Q And when was that?
 23 A I don't remember exactly what day. I

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1 remember calling her from my house.
 2 Q Would that have been the next night
 3 from the original phone call?
 4 A It was right after I met Jim
 5 Brookshire, so it's likely that there was --
 6 there was a day.
 7 Q What did you -- well, before I get to
 8 that, did Mr. Brookshire say anything else about
 9 him finding Mr. Dees asleep?
 10 A He didn't talk about anything else.
 11 Q Did he -- did he describe to you what
 12 he saw in any more specific terms than just
 13 seeing Mr. Dees asleep?
 14 A I don't recall exactly what took place
 15 between Mr. Brookshire and myself, but I recall
 16 that Mr. Brookshire mentioned that until I got
 17 quite close to Mr. Dees he did not -- he was not
 18 aware of my approaching.
 19 Q That's what Mr. Brookshire said?
 20 A Yes.
 21 Q Is that all that you remember about
 22 your conversation with Mr. Brookshire?
 23 A That's it. That's about all.

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1 Q Did you -- other than Mr. Prater and
 2 Mr. Brookshire, did you discuss this situation
 3 with anyone else as you made your inquiry?
 4 THE INTERPRETER: Mr. Prater?
 5 MR. SPORT: Prater and Brookshire.
 6 A I have heard that -- other members of
 7 the team talk about Mr. Dees being fired.
 8 Q Well, my question was a little more
 9 specific than that. My question related to
 10 during the time when you were making your
 11 inquiry, because you agreed or you told
 12 Mrs. Dees that you would check into it, and the
 13 time that you called her back and told her what
 14 you had learned, did you discuss your inquiry
 15 with anyone other than Mr. Prater and
 16 Mr. Brookshire?
 17 A Other members of the team indicated
 18 that they have heard about that, so I told them
 19 that I was looking into it, also.
 20 Q Did any of the other Team Members
 21 express to you whether or not they thought that
 22 Mr. Dees had been fired improperly?
 23 A My interest at that time was since I

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1 was told that he did not -- Mr. Dees did not
 2 sleep, but I wanted to find out whether that was
 3 a fact or not. But I wasn't interested in
 4 whether he was duly fired or unduly fired.
 5 Q Fair -- fair statement. Did any one of
 6 the other Team Members tell you that Mr. Dees
 7 was not asleep?
 8 A I don't recall exactly what was said
 9 about that.
 10 Q Did any of them tell you that he was
 11 asleep?
 12 A No.
 13 Q Other than Mr. Prater, Mr. Brookshire,
 14 and some of the Team Members -- do you recall
 15 who the Team Members were?
 16 A No, I do not recall.
 17 Q Before you called Mrs. Dees back that
 18 night, did you discuss your inquiry with anyone
 19 else?
 20 A No.
 21 Q When you called Mrs. Dees back, what
 22 did you tell her?
 23 A I told her that Jim Brookshire saw --

16 (Pages 61 to 64)

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1 Jim Brookshire stated that he saw Mr. Dees
2 sleeping on the job.
3 Q Is that all?
4 A I -- I don't remember anything else.
5 Q Is it your testimony that you did not
6 tell Mrs. Dees that Mr. Prater was lying about
7 Mr. Dees being asleep?
8 A I don't recall saying anything like
9 that because I knew that Mr. Prater was not the
10 one who made out the report.
11 Q Is there anything else that you told
12 Mrs. Dees during that conversation?
13 A I don't recall anything else
14 specifically.
15 Q Did you tell Mrs. Dees whether or not
16 anything could be done about Mr. Dees being
17 terminated?
18 A No, I did not have such discussions.
19 Q Did you tell Mrs. Dees that there was
20 nothing you could do about the situation?
21 A I told her that I couldn't do much
22 because I am simply a Coordinator.
23 Q Did you do any investigation into the

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1 process that was gone through by whoever it was
2 that ultimately fired Mr. Dees?
3 A I remember asking someone what kind of
4 process they went through before firing
5 Mr. Dees. Someone -- someone told me at the
6 time that Mr. Dees was supposed to appear at an
7 investigative hearing, but either he didn't come
8 to the meeting or he went away from the meeting.
9 Q Well, I --
10 THE VIDEOGRAPHER: Excuse me. I need
11 to change tapes.
12 MR. SPORT: Okay.
13 THE VIDEOGRAPHER: Off the Record.
14 Back on the Record. Tape 4.
15
16 BY MR. SPORT:
17 Q Mr. Mun, I understand that Hyundai
18 has -- has tried to make a big deal about --
19 about this -- about the fact that Mr. Dees
20 didn't show up for his hearing, but that would
21 have occurred after the one-day period that you
22 had to make this initial inquiry on behalf of
23 Mrs. Dees. My question is, did you do any

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1 investigation into the process that was gone
2 through to ensure that HMMA was following its
3 own policies and, as you stated, the normal
4 practice of making sure that someone got an
5 evaluation prior to being terminated.
6 MR. JOHNSON: Object to the form.
7 Q Did you follow up on that?
8 THE INTERPRETER: It's too long.
9 MR. SPORT: Too long.
10 THE INTERPRETER: I can't -- yeah.
11 Could you cut it short a few pieces?
12 MR. SPORT: Sure.
13 Q You said to me a moment ago that
14 someone had told you that Mr. Dees did not show
15 up for his hearing.
16 A Whether he didn't come or whether he
17 left the meeting, yeah, I don't remember.
18 Q Okay. But that would have occurred
19 after your return phone call to Mrs. Dees?
20 MR. JOHNSON: Object to the form.
21 A That must have taken place before he
22 was fired.
23 Q Well, the documents will show whatever

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1 they show. But my question is this. Mrs. Dees
2 told you two things. One was that Mr. Dees was
3 not asleep but he had been accused of being
4 asleep and that's why he was fired. And you've
5 told me what you did to check into that. The
6 second thing that you told me was that he was
7 fired without a due evaluation of the event.
8 And I'm asking what did you do to check into
9 whether or not that was true.
10 MR. JOHNSON: Object to the form.
11 A I simply asked someone about that.
12 Q And who did you ask?
13 A Greg Prater.
14 Q And what did Mr. Prater say?
15 A As I told you a few minutes ago, either
16 Mr. Dees did not come to the meeting or he left
17 the meeting. And I heard that there was a
18 hearing about that.
19 Q And that's what Mr. Prater told you?
20 A Yes. That's correct.
21 Q So when you called Mrs. Dees, did you
22 tell her anything about the fact that there had
23 been an investigation and it had been determined

17 (Pages 65 to 68)

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1 that Mr. Dees, in fact, was asleep?
 2 MR. JOHNSON: Object to the form.
 3 A I remember I said something like that.
 4 Q So when you called Mrs. Dees back as
 5 you said you would, you were doing what you
 6 promised to do; is that correct?
 7 MR. JOHNSON: Object to the form.
 8 A I told her the day before that I would
 9 look into the matter, and I was trying to give
 10 her what I found out.
 11 Q And you did that?
 12 A Yes.
 13 Q So you were an honorable man; you were
 14 a good man?
 15 MR. JOHNSON: Object to the form.
 16 A Thank you for regarding me as a good
 17 man.
 18 Q Mr. Mun, is it not true that when you
 19 called Mrs. Dees you told her that Mr. Prater
 20 was lying but there was nothing you could do
 21 about it, that you had been told to stay out of
 22 it?
 23 MR. JOHNSON: Object to the form.

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1 A I don't -- I don't recall saying that
 2 Mr. Prater was lying, but I simply told her that
 3 I'm not a member of the management team and it's
 4 not anything that I could get involved.
 5 Q So is it your testimony that you did
 6 not tell her that you had been warned to stay
 7 out of it?
 8 MR. JOHNSON: Object to the form.
 9 A I came here as a Coordinator and I know
 10 my responsibilities, and I know I should not get
 11 involved with anything else.
 12 Q Mr. Mun, has anybody at Hyundai
 13 threatened you with firing you and sending you
 14 back to Korea if you didn't show up here today
 15 and testify right?
 16 A I came here in response to a court
 17 request, I understand.
 18 Q That's correct. But that's not my
 19 question. My question is, did anyone at Hyundai
 20 tell you that you would be sent back to Korea if
 21 you didn't stay out of this situation.
 22 A No, there was no such things. But
 23 initially when I was going through orientation,

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1 we were told to stay within the -- his own
 2 responsibilities.
 3 Q Or what?
 4 A As a Coordinator stay within my
 5 responsibilities. Implying that I should not
 6 get involved with anything else.
 7 Q And when this situation came up with
 8 Mr. Dees being fired, did anyone at Hyundai
 9 remind you of that?
 10 A No, there wasn't anyone.
 11 Q And did anyone remind you of that
 12 before this deposition?
 13 A No.
 14 MR. SPORT: That's all I've got. Thank
 15 you.
 16 MR. JOHNSON: If we can take a quick
 17 break, and we'll be right back. And I should
 18 not be long.
 19 MR. SPORT: Okay.
 20 THE VIDEOGRAPHER: Off the Record.
 21
 22 (Whereupon, a brief recess was had in
 23 the proceeding.)

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1
 2 EXAMINATION
 3 BY MR. JOHNSON:
 4 Q Mr. Mun, I'm Matt Johnson, and I'm an
 5 attorney with Ogletree, Deakins. And I want to
 6 talk to you a little bit further. I have a few
 7 more questions. A couple of my questions have
 8 to do with some translation issues that I just
 9 want to make sure are accurate.
 10 First, Mr. Sport has asked questions
 11 about what you did to prepare for the
 12 deposition, and you mentioned that you had
 13 watched a videotape.
 14 A Yes.
 15 Q And did you watch that videotape last
 16 Friday?
 17 A Yes.
 18 Q Okay. And I believe Mr. Sport asked
 19 some questions about who was there, and I just
 20 wanted to clear up, make sure the translation is
 21 complete.
 22 A Yes.
 23 Q Just to make sure we have an accurate

18 (Pages 69 to 72)

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<p style="text-align: right;">Page 73</p> <p>1 list of who was present last Friday, tell us 2 exactly who was there. 3 A I and the interpreter, Mr. Chu, and 4 Mr. Smith. I not remember his name. There was 5 another person. I can't remember their names 6 exactly. 7 Q Okay. If I said the name Trent 8 Scofield would that sound familiar? 9 A Yes. That's correct. 10 Q And you mentioned yesterday you 11 reviewed the written transcript of Mr. Dees' 12 deposition? 13 A Yes, I did. 14 Q And to make sure we have an accurate 15 accounting of who was there, tell us who was 16 there yesterday. 17 A The four of us who are here today. 18 Q And that would be Mr. Smith? 19 A Mr. Smith, Mr. Chu, Matt Johnson. 20 THE WITNESS: I'm sorry. 21 A And myself. 22 Q Okay. You had spoken to Mr. Sport 23 about contracts, and we used the English word</p>	<p style="text-align: right;">Page 75</p> <p>1 the translated response was that you had no 2 contact with Mr. Brookshire. And I just want to 3 follow up with that. Is it that he had no 4 contact with him or he had no direct work 5 relationship with him? Or clarify that 6 relationship. 7 A There was no working relationship with 8 Mr. Brookshire and myself. 9 Q Okay. Last question. In your first 10 telephone conversation with Mrs. Dees, did she 11 mention the possibility of filing a lawsuit 12 against HMMA? 13 A Not the first time I talked to her. 14 Q Did she the second time? 15 A During the second conversation, I think 16 she mentioned something like that. 17 Q Okay. 18 MR. JOHNSON: I believe that's all we 19 have. 20 Chris? 21 MR. SMITH: (Counsel shakes head.) 22 MR. JOHNSON: That's all. 23 MR. SPORT: Just one or two.</p>
<p style="text-align: right;">Page 74</p> <p>1 contracts. And I want to talk to you a little 2 bit about how that word translates into Korean. 3 A It's not really a contract, but we 4 generally call that a period of stay. 5 Q So the question I was going to ask is, 6 in English as we use the word contract, it 7 often -- people think of something in writing 8 that you signed. In this case, did he actually 9 sign a written contract like that? 10 A No, there was no such contract. 11 Q Okay. And Mr. Sport asked questions 12 about your pay or your salary. Are you paid on 13 a monthly basis? 14 A Once a month. 15 Q And do you have any information on how 16 often other employees of HMMA -- such as when 17 Mr. Dees was employed -- how often they would be 18 paid? 19 A They receive pay every two weeks. 20 Q There was some discussion about Mr. Mun 21 and Mr. Brookshire. And I want to clarify a bit 22 of that. When you were asked what sort of 23 relationship do you have with Mr. Brookshire,</p>	<p style="text-align: right;">Page 76</p> <p>1 FURTHER EXAMINATION 2 BY MR. SPORT: 3 Q Mr. Mun, do you recall sometime shortly 4 after Mr. Dees was terminated Mr. Prater's 5 responsibilities being moved from supervisor or 6 assistant manager of the Stamping Maintenance 7 over to working in the storeroom? 8 THE INTERPRETER: I didn't get that 9 question. Mr. Prater? 10 MR. SPORT: My question is, after 11 Mr. Dees was terminated, does he recall being 12 transferred from assistant manager or supervisor 13 of Stamping Maintenance over to the storeroom. 14 A He was not transferred. He continued 15 to work as assistant manager. 16 Q But rather than supervising the Team 17 Members was he now in the storeroom? 18 A No. No, he has not been transferred to 19 the store. 20 Q So at no time were you ever in charge 21 of the Stamping Maintenance Team Members; is 22 that correct? 23 MR. JOHNSON: Object to the form.</p>

19 (Pages 73 to 76)

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1 THE INTERPRETER: I didn't catch that
 2 tail end.
 3 Q My question is, were you -- so, as I
 4 understand it, at no time were you in charge or
 5 did you supervise the Stamping Maintenance Team
 6 Members; is that correct?
 7 A No, I have never.
 8 Q Mr. Mun, do you have your employee
 9 badge?
 10 A Yes.
 11 Q Can we see that?
 12 A (Witness complied.)
 13 Q G.S., those are your initials?
 14 A Yes.
 15 MR. SPORT: Let the Record reflect that
 16 I'm just looking at his badge. I don't think we
 17 need a copy of that.
 18 Thank you.
 19 MR. JOHNSON: That's all.
 20 Thank you.
 21
 22
 23 FURTHER DEPONENT SAITH NOT

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1 C E R T I F I C A T E
 2
 3 S T A T E O F A L A B A M A)
 4
 5 C O U N T Y O F A U T A U G A)
 6
 7
 8 I hereby certify that the above and
 9 foregoing deposition was taken down by me in
 10 stenotype, and the questions and answers thereto
 11 were transcribed by means of computer-aided
 12 transcription, and that the foregoing represents
 13 a true and accurate transcript of the testimony
 14 given by said witness upon said hearing.
 15 I further certify that I am neither of
 16 counsel, nor kin to the parties to the action,
 17 nor am I in anywise interested in the result of
 18 said cause.
 19
 20
 21
 22 -----
 22 STACEY L. JOHNSON, Commissioner
 22 Certified Court Reporter,
 22 ACCR#: 386 - Expires 09-30-2008
 23 Commission Expires 06-22-2011
 23

20 (Pages 77 to 78)

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